



# Rhode Island Marine Fisheries Council

3 Fort Wetherill Road Jamestown, Rhode Island 02835

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

## MEETING NOTICE

**April 7, 2014 – 6:00 PM**

**URI Narragansett Bay Campus, Corless Auditorium  
South Ferry Road, Narragansett, RI**

**Robert Ballou**  
Chairman  
222-4700 x4420

**Richard Hittinger**  
Vice Chair  
739-1875

**Richard Bellavance**  
741-5648

**Kenneth Booth**  
793-0454

**Jeff Grant**  
243-5123

**William Mackintosh, III**  
477-0603

**David Monti**  
480-3444

**Christopher Rein**  
525-4969

**Michael Rice, Ph.D.**  
874-2943

Agenda item	Agenda item detail	Suggested action
1. Approval of Agenda	4-7-2014 RIMFC Agenda	Approval of agenda.
2. Approval of Minutes	RIMFC 2-10-2014 meeting minutes	Approval of minutes.
3. Public Comments	Comments from the public on any items not on agenda	Take under consideration for possible discussion and/or future action.
4. New Business	<p><u>Review of 3-25-2014 public hearing items and Advisory Panel (AP) reports:</u> – R. Ballou; DFW staff</p> <ol style="list-style-type: none"> <li>1) <b><u>Recreational Summer Flounder;</u></b> <ul style="list-style-type: none"> <li>• AP report (02/20/14): - R. Hittinger</li> </ul> </li> <li>2) <b><u>Recreational Winter Flounder;</u></b> <ul style="list-style-type: none"> <li>• AP report (03/31/14): – R. Bellavance</li> </ul> </li> <li>3) <b><u>Recreational Tautog;</u></b> <ul style="list-style-type: none"> <li>• AP report (02/20/14): – R. Hittinger</li> </ul> </li> <li>4) <b><u>Commercial Tautog;</u></b> <ul style="list-style-type: none"> <li>• AP report (02/20/14): – R. Hittinger</li> </ul> </li> <li>5) <b><u>Recreational Scup;</u></b> <ul style="list-style-type: none"> <li>• AP report (02/19/14): – W. Macintosh</li> </ul> </li> <li>6) <b><u>Recreational Black Sea Bass;</u></b> <ul style="list-style-type: none"> <li>• AP report (02/19/14): - W. Macintosh</li> </ul> </li> <li>7) <b><u>Coastal Sharks;</u></b></li> <li>8) <b><u>Part VII/Finfish – general editing;</u></b> – J. McNamee; P. Duhamel</li> <li>9) <b><u>Recreational Striped Bass;</u></b> <ul style="list-style-type: none"> <li>• AP report (01/28/2014): – K. Booth</li> </ul> </li> <li>10) <b><u>Commercial Striped Bass;</u></b> <ul style="list-style-type: none"> <li>• AP report (01/28/14): – K. Booth</li> </ul> </li> <li>11) <b><u>Striped Bass Floating Fish Trap;</u></b> <ul style="list-style-type: none"> <li>• AP report (01/28/14): – K. Booth</li> </ul> </li> <li>12) <b><u>Part XII/Striped Bass – general editing;</u></b> – J. McNamee; P. Duhamel</li> <li>13) <b><u>Correct Bristol Harbor Shellfish Mgmt. Area boundaries;</u></b> – J. Mercer</li> <li>14) <b><u>Comm. and Rec. Conch;</u></b> <ul style="list-style-type: none"> <li>• AP report (02/20/14): – J. Grant</li> </ul> </li> <li>15) <b><u>Part IV/Shellfish – general editing;</u></b> – J. McNamee; P. Duhamel</li> <li>16) <b><u>Part III – Remove descriptions of SMAs;</u></b> – J. McNamee; P. Duhamel</li> <li>17) <b><u>Part III – General editing;</u></b> – J. McNamee; P. Duhamel</li> <li>18) <b><u>Experimental Artificial Reef</u></b></li> </ol>	<ol style="list-style-type: none"> <li>1. Review and discussion of proposed regulations, public hearing presentation, and public comments received.</li> <li>2. Provide recommendations to Director.</li> <li>3. Approve AP reports for: <ul style="list-style-type: none"> <li>• Summer Flounder;</li> <li>• Winter Flounder;</li> <li>• Tautog;</li> <li>• Scup/Black sea bass;</li> <li>• Striped Bass;</li> <li>• Menhaden</li> </ul> </li> </ol>

	<p><b><u>locations (Part XI – Comm. Fisheries);</u></b>  <i>- N. Lengyel; J. McNamee</i></p> <p>19) <b><u>Part XI – General editing;</u></b> – <i>J. McNamee; P. Duhamel</i></p> <p>20) <b><u>Menhaden</u></b>  <ul style="list-style-type: none"> <li>• AP report (02/19/14): – <i>D. Monti</i></li> </ul> </p> <p>21) <b><u>Part XVI – General editing;</u></b> – <i>J. McNamee; P. Duhamel</i></p>	
5. NEFMC/ ASMFC Reports	<b><u>NEMFC - February 2014;</u></b> – <i>M. Gibson, B. Ballou</i>	FYI and discussion.
6. Adjourn		

**All RIMFC Meetings are open to the public**



# Rhode Island Marine Fisheries Council

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

February 10, 2014

URI Narragansett Bay Campus, Corless Auditorium  
South Ferry Road, Narragansett, RI

## MEETING MINUTES

Chairperson: B. Ballou

RIMFC Members Present: K. Booth, R. Hittinger, D. Monti, W. Mackintosh, J. Grant, M. Rice, C. Rein

Members absent: R. Bellavance

DEM: L. Mouradjian, M. Gibson, G. Powers, J. McNamee, S. Olszewski, J. Mercer, P. Duhamel, Sgt. Tom Silvia (DLE)

CRMC: Dave Beutel

Public: Approximately 10 persons.

1. **Approval of the Agenda:** *B. Ballou* inquired as to objections to re-ordering the agenda by moving the Aquaculture applications up as item 4a; with the remaining items following as arranged. *D. Monti* asked to add an FYI item regarding a discussion the NOAA recreational fishing working group and re-authorization of the Magnuson-Stevenson Act. *R. Ballou* inquired as to any further comments regarding the agenda; hearing no further comments or objections, the revised agenda was then approved by consent.

2. **Approval of RIMFC meeting minutes from December 2, 2013:** *B. Ballou* inquired as to any modifications to the minutes or any objections to approving the minutes. Hearing none, the minutes were approved by consent.

3. **Public comments regarding other matters not on agenda:** No comments were made.

4. **New business - 11/19/2013 public hearing items:**

**4a. - Shellfish AP Report and Aquaculture applications:** *J. Grant* provided a summary of the Shellfish AP meeting that occurred on 1/29/14. He offered that the meeting was lightly attended with only three SAP members. The meeting was held solely to discuss and vote on the three aquaculture applications:

1. **Brian Pinsky - Ninigret Pond, Charlestown:** Motion was made to recommend no objection due to no conflict with wild harvest. Vote was one in favor; one against; one abstention.
2. **James Arnoux/East Beach Farms - Quonochontaug Pond, Charlestown:** Motion was made to recommend no objection
3. **Ian Campbell - Pt. Judith Pond, South Kingstown:** Motion was made to recommend no objection.

*J. Grant* offered that these applications were being brought to the Council due to light attendance at the AP meeting and to provide Council recommendations to CRMC in order to prevent any delay in CRMC review of the applications.

Upon conclusion of the summary of the AP report, *R. Ballou* inquired to any objections to its approval. Hearing none, **the Shellfish AP report was approved.**

Discussion ensued regarding each of the applications:

1. Brian Pinsky: *J. Mercer* provided maps on the overhead screen showing locations of the site and other pertinent information including eelgrass and boatramps. *J. Grant* offered that the site survey conducted by DFW staff resulted in the capture of two Lady Crabs (no shellfish). He offered that there was a single objection received for this application: a letter from Jeff Gardner, which cited several objections. *K. Booth* offered that the lease fee was extremely low. *D. Beutel* offered that RI has some of the highest lease fees in the country. *M. Gibson* offered that a clarification was needed due to an apparent inconsistency in the AP minutes regarding comments from *Mr. Paul Kennedy*; in that there appeared to be an objection due to impacts to recreational harvest, but then later in the minutes, that there was no such activity observed at the site. *J. Grant* offered clarification that his recollection of the discussion was that while there was significant recreational shellfishing occurring at the site, there was minimal success with actual harvest; to which *J. Mercer* concurred. *D. Beutel* offered further clarification based on his recollection of the meeting that it was *Mr. Kennedy's* observation/comment that recreational activity was not necessarily significant in the proposed footprint, but that the activity increased the closer to the shore (north side of the barrier beach). *J. Grant* provided a final comment that a majority of the comments/objections made at the AP were not under the purview of the Council; and offered that he did not believe that the proposed lease presented a conflict with wild harvest shellfishing.

*J. Grant* offered a motion to **recommend no objection to the Director**; 2<sup>nd</sup> by *R. Hittinger*. **The motion passed by a vote of 7 – 0.**

2. Ian Campbell: *J. Mercer* provided maps on the overhead screen showing locations of site and other pertinent information including eelgrass, sandbars, boatramps, navigational channels and waterdepths. He showed how the site was located partially on the sandbar and partially in deeper water adjacent to the sandbar; between waterdepths of 1.5 and 8 feet. He offered that the site survey resulted in less than one clam/sq. meter and that shellfishing in this area was limited. *J. Grant* offered that the comments regarding recreational shellfishing at the AP meeting were favorable in that recreational activity was located more so in areas to the north and south, but there was minimal activity in the proposed lease footprint. He offered that he knew *Mr. Campbell* as a commercial shellfisherman and thought he would be aware of suitable areas in this pond to avoid conflicts with wild harvest. *M. Rice* offered that he thought the site was suitable for aquaculture based on his knowledge of water flow patterns in the pond.

*M. Rice* offered a motion to **recommend no objection to the Director**; 2<sup>nd</sup> by *D. Monti*. **The motion passed by a vote of 7 – 0.**

3. James Arnoux: *J. Mercer* provided maps on the overhead screen showing locations of site and other pertinent information including eelgrass and boatramps. He offered

that this was the first full aquaculture application in Quonochontaug Pond. He offered that the site survey resulted in less than ½ clams/sq. meter; a very low density. Mr. Arnoux offered that he has had good success growing oysters in the location as part of his existing CRMC Commercial Viability approval. He offered that he was unaware of significant recreational shellfishing in the area, and that the presence of boulders in the water made the area unsuitable for boating activity.

*D. Monti* offered a motion to **recommend no objection to the Director**; 2<sup>nd</sup> by *C. Rein*.  
**The motion passed by a vote of 7 – 0.**

**4b. - January 22, 2014 public hearing items:**

*R. Ballou* offered a summary of the proposed regulations and their intent. *M. Gibson* offered a summary of ASMFC requirement and the declining status of lobster stocks. *S. Olszewski* offered that the proposed regulations are a result of ASMFC requirements to reduce effort in the Lobster fishery; and that the transferability regulations are designed to allow Lobster fishermen to maintain a current level of fishing effort after the trap reductions are effectuated via a transferability program. He offered that Massachusetts has already adopted a program and that the NOAA Fisheries is in the process of the same. *P. Duhamel* presented the powerpoint that was presented at the public hearing on January 22, including the four options in Part XV.

*M. Gibson* offered Division perspective on each of the options:

1. Trap Floor option: He offered that option 1 (include a trap floor) was a sensible, common sense option but that it needs to be determined, prior to the Director rendering a decision, if this option is in compliance with ASMFC.
2. Ownership Cap option: He offered that this issue was controversial and determination of which option is acceptable may be an ASMFC compliance issue and needs to further addressed in subsequent ASMFC actions; but that due to ASMFC compliance, the Division presently believed that option 1 (institute an ownership cap per ASMFC Addendum XXI) was the only viable option currently available. He added that the Department may request to the ASMFC in the Spring with another addendum request to modify and ease this restriction.
3. License option: *M. Gibson* offered that the Division was in support of option 1 (provide a new PEL license with purchase of a trap allocation), in that there isn't a need to restrict trap allocations amongst existing license holders. He added that the number of licensees isn't important in terms of impacts to the fishery, that trap reductions will be occurring, and the Division supports license availability to fishermen that acquire trap allocation.
4. Application Deadline option: *M. Gibson* offered that the Division support option 2 (application has a set time to occur during the year) due to administrative purposes; that it would be the least burdensome in terms of program administration; but recognizes that option 1 would be the most flexible for industry.

*J. Grant* then provided a summary of the Lobster AP meeting that occurred on 12/18/13.

1. Trap Floor option: He offered that the AP voted 4- 1 that this item should go to public hearing but did not support the trap floor option (option 1 as presented at the public hearing).
2. License option: He offered that the AP voted 4 -1 to recommend to the IAC to provide for the issuance of a new PEL license with a lobster endorsement; but that this take effect one year after commencement of the program to allow for current



lobster trap licensees to rebuild their allocations (hold off one year before opening up program to new licenses).

*R. Ballou* inquired to any objections to **approving the Lobster AP report**. Hearing none, the **report was approved**.

*R. Hittinger* inquired as to the definitions of traps that had been being discussed recently; to which *S. Olszewski* replied that only lobster traps is relevant for the present discussion and proposed regulations. He offered that a lobster trap is defined as a trap with a properly authorized trap tag on it; to which *W. Macintosh* replied that it was also based on escape vent size. *M. Gibson* offered that it was based on trap tag, dimensions and escape vents. *W. Macintosh* offered that the trap floor option was a reasonable option; to which *M. Gibson* agreed and *S. Olszewski* offered that the sentiment from the AP was that the reductions should be applied equally to all (no trap floor).

R. Ballou asked for votes on the four options:

1. Trap Floor option: *D. Monti* offered a motion to **recommend adoption of option 1 (provide for a trap floor)**; 2<sup>nd</sup> by *M. Rice*. *J. Grant* offered that he thought option 2 was the most fair in that it applied equally to all fishermen; and also offered that ASMFC compliance should be assured before the Director adopts a trap floor. **The motion passed by a vote of 7 – 0.**
2. Ownership Cap option: *J. Grant* offered a motion to **recommend adoption of option 1 (provide for an ownership cap)**; but that option 2 be further explored; 2<sup>nd</sup> by *D. Monti*. *P. Duckworth* commented that he was concerned that option 1 would limit the fisherman to only two permits, and that this could prove restrictive in terms of the fisherman trying to rebuild allocation. Discussion ensued that this matter needed clarification from ASMFC and/or subsequent revisions to the addenda that addresses this issue. **The motion passed by a vote of 7 – 0.**
3. License option: *R. Ballou* offered clarification that this option would be available to all currently eligible license holders, including those with a PEL with lobster endorsement; a CFL with lobster endorsement; or a multi-purpose license. He offered that the proposed regulation as currently written would need to be modified to reflect this. *R. Hittinger* commented that he had a concern with option 1, in that this may result in unwanted participation in the fishery, and potentially negate intended reduced involvement in the fishery; to which *R. Ballou* commented that it is the number of traps, rather than the number of licensees, that is the control measure. *K. Booth* offered that he was concerned that providing new licenses may result in these new licensees being offered advanced eligibility for a restricted finfish license ahead of other fisherman currently in the fishery; to which *J. Grant* replied that this would not be the case. He then offered that in order to have a successful trap transfer program that it must be opened to new licenses, and re-emphasized that it is the number of traps rather than the number of licenses that is the management control for the fishery, and that fishermen currently participating in the fishery must be allowed an opportunity to rebuild their allocations before opening up the program to new licenses (allow for full participation only after one year). *W. Macintosh* offered that he agreed with the one year delay for full participation. *C. Rein* offered a motion to **recommend adoption of option 2** (only allow amongst current license holders); 2<sup>nd</sup> by *J. Grant*, **with the caveat that new licenses be available after one year** (per AP recommendation). (note: the regulations would be modified to reflect this – combine elements of both options). *P. Duckworth* commented that availability of new licenses

should only occur after the trap reductions are completed (after the 5<sup>th</sup> year); to which *R. Ballou* replied that it would commence after one year the program begins. Discussion then ensued regarding the transfer of allocation from federal or into RI state waters (and possibly vice-versa), and how licenses would be issued to reflect this. *M. Gibson* offered that this would increase effort in RI waters, which was not intended, and that this matter needs clarification with ASMFC and NOAA Fisheries. It was discussed that until NOAA Fisheries publishes a final rule regarding trap transferability by federal lobster permit holders, this matter would remain unresolved. *M. Gibson* inquired as to clarification as to the year delay; is it based on fishing year (begins June 1) or calendar year. *R. Hittinger* offered that it should be one full year after program implementation. After conclusion of discussion, *W. Macintosh* moved to offer a **perfected motion “to recommend adoption of option 2 for the 2014 fishing year (6/1/14 – 5/31/15) with the caveat that it would take place for this fishing year only, after which time option 1 would take effect but only be applicable for state trap allocations”**; 2<sup>nd</sup> by *M. Rice*. Discussion ensued regarding the transfer of federal traps into state waters. *J. Grant* offered that this matter needs clarification and will continue to be unclear until the federal program commences. **The motion passed by a vote of 6 – 0; *J. Grant* abstaining.**

4. **Application Deadline option:** *M. Gibson* offered that the Division was in support of option 2 (application only during set time of year) due to Division needs for administering the program. *R. Hittinger* offered a motion to **recommend adoption of option 2**; 2<sup>nd</sup> by *M. Rice*. *M. Rice* offered that option 2 seemed logical due to needs of administering a government program. **The motion passed by a vote of 7 – 0.**

*R. Ballou* then asked for discussion and a vote for Part XV regulations in its entirety. *J. Grant* inquired as to whether or not federal permit lobster trap allocation holder will be subject to a trap reduction schedule if the federal government doesn't commence a program. *M. Gibson* offered that an MOU in place between RI and the federal government adequately address this matter. *J. Grant* offered a motion to **recommend adoption of the regulations in their entirety, including the options as previously addressed** and voted on; 2<sup>nd</sup> by *D. Monti*. **The motion passed by a vote of 7 – 0.**

*R. Ballou* then asked for discussion and a vote for the proposed amendments to the Licensing regulations, and offered that these amendments were intended to sync with Part XV, which was previously discussed and voted on. *M. Rice* offered a motion to **recommend adoption of the regulations as proposed**; 2<sup>nd</sup> by *J. Grant*. **The motion passed by a vote of 7 – 0.**

#### **4c. - AP Meeting/Agenda approvals:**

1. **Groundfish/Federally Managed Species:** *K. Booth* provided a summary of the topics for the meeting to be discussed at the meeting and as outlined in the proposed agenda, including Monkfish and Coastal Sharks. He advised the Council that the regulation regarding the Cod fillet should also be added to agenda; to which *J. McNamee* added that this also involved Cod minimum size. *R. Ballou* inquired as to objection to adding these two additional items and approving the agenda; hearing none, the agenda was approved; tentatively planned for March.
2. **Tautog:** *R. Hittinger* offered that participation was low for these meetings; and was looking to combine with another AP meeting. *R. Ballou* inquired as to objections to approving the agenda; hearing none, the agenda was approved.

3. **Summer Flounder:** *R. Ballou* offered that this meeting should be held as soon as possible. Discussion ensued regarding coordination with Massachusetts per new ASMFC requirements and the timeliness of the meeting with regards to coordination with Massachusetts and ASMFC. *R. Hittinger* inquired if meeting was solely addressing recreational management, to which *R. Ballou* replied that it was. *D. Monti* asked to add a “RI Fish for the Future” proposal. It was also discussed to add an item to discuss the ASMFC regional management requirement for RI and Massachusetts. *R. Ballou* inquired as to objection to adding these two items and approving the agenda; hearing none, the agenda was approved; tentatively planned for the following week.
4. **Scup/Black Sea Bass:** *R. Ballou* inquired as to objection to approving the agenda as proposed; hearing none, the agenda was approved. It was discussed that this meeting would be combined with the Tautog AP meeting, tentatively planned to be held within the next two weeks.
5. **Menhaden:** *J. Grant* offered that a discussion needs to occur regarding fishermen fishing commercially for Striped bass while simultaneously fishing recreational for Menhaden (pogies) in the Narragansett Bay Menhaden Management Area; in that fishing for pogies may be illegally occurring during closure of the Management Area. He offered that it may be possible and necessary to modify regulations to accommodate this practice. *R. Ballou* offered that *J. Grant* should provide an email to *D. Monti* in order to prompt discussion at the AP meeting. *R. Ballou* then inquired as to objection to approving the agenda as proposed; hearing none, the agenda was approved.

The final conclusion for scheduling meetings was to hold the Menhaden and Scup/BSB meetings in tandem on the same date; and the same for the Tautog and Summer Flounder meetings.

6. **Whelk Ad Hoc:** *R. Ballou* inquired as to objection to approving the agenda as proposed. *M. Gibson* asked for a modification: to change item 1.a. to “DFW Age and Growth study – report data and implications”; item 1.b. to DFW stock assessment update; items 1.c. and 2. to remain as the last two items. *J. Grant* concurred with proposed changes. *R. Ballou* inquired as to objections to approving the agenda as revised; hearing no further proposed modifications, the agenda was approved. *J. Grant* offered that a tentative date of February 20th had been scheduled for the meeting.
7. **Winter Flounder:** It was discussed that the meeting was needed to discuss State waters recreational fishing specifications set by ASMFC last week. *M. Gibson* inquired as to the need for the meeting due to proposed liberalization of the regulation. He suggested that if meeting is held, that an item regarding an update from staff regarding the life history project be added. *D. Monti* offered that the meeting should be held with the added agenda item per *M. Gibson’s* suggestion. *R. Ballou* inquired as to objections to approving the agenda as revised; hearing no further proposed modifications, the agenda was approved.

**Agenda Item 4d. - Council package format and mailing:** *J. McNamee* provided rationale for the request to change from paper packet mailings to electronic packets, which would be provided via email and/or DFW website; benefits which would include reduction in paper, and posting for public viewing prior to meeting. He explained that agenda items would be hyperlinked for easy access and internet is available at Corless Auditorium to accommodate this change. *W. Macintosh* offered concern with internet/WiFi availability in the building; to which *J. McNamee* offered that it is available. *R. Ballou* inquired as to the possibility of providing CD’s as back-ups in the event of unavailability of the internet; to which *J. McNamee* replied that the current paper packets would be preferable due to equipment needs to produce the CD’s. *J. McNamee* then also

*RIMFC Meeting Minutes 2-10-2014*



offered that the agenda items should be downloaded to individual laptop hard-drives (items will be available as pdf's) prior to arriving at meeting; then would still be able to access in event of unavailability of internet. Upon conclusion of the discussion, it was agreed by Council to try the electronic format.

**Agenda Item 4e. - Appointment of Chair to Bluefish/Weakfish Advisory Panel:** *R. Ballou* offered that Council member *C. Rein* had volunteered for this appointment. *D. Monti* moved to recommend approval of this appointment; 2<sup>nd</sup> by *R. Hittinger*. *R. Ballou* inquired to any objections; hearing none, the appointment of *C. Rein* was approved.

**Agenda Item 5:**

- FYI - Director Decision Memo:
- *D. Monti* brief to the Council regarding the re-authorization of the Magnuson-Stevenson Act: *D. Monti* offered that the re-authorization is currently underway and that the state's congressional delegation will be meeting on February 14<sup>th</sup> here at the Bay Campus to seek comments. He offered that a white paper has been produced by the NOAA recreational fishing working group that he is part of to address a synopsis of the recreational needs to be included in the re-authorization. *K. Booth* offered that the issue of transiting in the EEZ should be discussed. *R. Ballou* offered that the Director's primary focus for this meeting will be RI representation on the Mid-Atlantic Council and the transit issue.
- NEFMC Report: *R. Ballou* offered that the ASMFC report was not yet available and provided a summary of the main points of NEFMC report.

*W. Macintosh* offered that the issue about how the science has impacted the Black Sea Bass fishery and how the Division had indicated that science is suspect needs to be brought as an issue for the upcoming meeting regarding re-authorization of the Act. He offered that this problem is affecting how fishermen feel about the science. *R. Ballou* offered that the Council could discuss re-authorization issues at subsequent Council meetings, and then the Council could follow-up with Council recommendations on re-authorization of the Act. He indicated that Council members should let him know if this was desired for subsequent Council meetings.

Discussion ensued regarding the regional management now required for recreational Summer flounder, and that RI regulations should be syncing with Massachusetts regulations

Meeting adjourned at approximately 8:40

Prepared by *P. Duhamel*

# **RI Department of Environmental Management**

## **Division of Fish and Wildlife Marine Fisheries**

**PUBLIC HEARING**

**March 25, 2014**



# Hearing Item #1: Recreational Summer Flounder (Part VII - section 7.7.4)

- Option 1 - Status Quo:

18" length; 8 fish bag limit; May 1 - Dec. 31

- Option 2 – decrease size, decrease bag limit, and shorten season:

17" length; 5 fish bag limit; May 22 – Sept. 30

- Option 3 – decrease size, maintain bag limit, and shorten season:

17" length; 8 fish bag limit; May 22 – Sept. 30

- Option 4 - decrease size, decrease bag limit, and shorten season:

16.5" length; 5 fish bag limit; May 22 – Sept. 30

- Option 5 – decrease size, decrease bag limit, and shorten season:

16.5" length; 3 fish bag limit; May 22 – Sept. 30

- Option 6 – “Fish for the Future” proposal:

- The RIDEM seeks input on the allowance of a small scale management program for a portion of the RI charter boat fleet which would allocate a 2% portion of the 2014 RI recreational harvest limit for fluke to a group of charter vessels. The group of vessels will opt in to a contract to track and report their harvest to the RIDFW and will be obligated to cease fishing for summer flounder when their allocation is exhausted. A full proposal can be found at:

- <http://www.dem.ri.gov/programs/bnatres/fishwild/pdf/sfl022014p.pdf>



## Hearing Item #2: Recreational Winter flounder (Part VII - section 7.8.1-2)

- Option 1 - Liberalize Season:

7.8.1-2 Recreational Seasons, Possession Limits, and Closed Areas: ~~(a) Beginning on the fourth Saturday in April and continuing for 30 days, and beginning on the last Saturday in September and continuing for 30 days,~~ **Between March 1 and December 31 of each year,** fishermen may take and possess not more than two (2) winter flounder per person per calendar day in Rhode Island waters, except in Narragansett Bay north of the Colregs line, and in Potter Pond, Point Judith Pond and the Harbor of Refuge, where the harvest or possession of winter flounder is prohibited.

- **ASMFC Compliant**



### Hearing Item #3: Recreational Tautog (Part VII- section 7.9.1)

- Option 1 - Status Quo:
  - ◊ April 15 - May 31: 3 fish
  - ◊ June 1 – July 31: Closed
  - ◊ Aug. 1 – Friday before 3<sup>rd</sup> Saturday in Oct: 3 fish
  - ◊ 3<sup>rd</sup> Sat. in Oct. – Dec. 15: 6 fish
- Option 2 – Earlier opening date for 1st sub-period:
  - ◊ April ~~15~~ 1 through May 31

### Hearing Item #4: Commercial Tautog (Part VII - section 7.9.2);

- Option 1 - Status Quo: (April 15 – May 31: 10 fish/vessel/day; August 1 – September 15: 10 fish/vessel/day; October 15 – December 31: 10 fish/vessel/day).





## Hearing Item #5: Recreational Scup (Part VII- section 7.11.3)

- Option 1 - Status Quo:
  - 10" length;
  - 30 fish bag limit;
  - May 1 – Dec. 31 annually
  - P/C: 30 fish May 1 – Aug. 31;
  - P/C: 45 fish Sept. 1 – Oct. 31
  - P/C: 30 fish Nov. 1 – Dec. 31
- **ASMFC Compliant**



## Hearing Item #6: Recreational Black Sea Bass (Part VII - section 7.14.2)

- 3.2% ASMFC reduction:
  - Option 1 – shorten season for 1<sup>st</sup> sub-period:
    - ~~June 15~~ June 22 through Aug. 31: 3 fish
    - Sept. 1 – Dec. 31: 4 fish (7 fish)
  - Option 2 – shorten season for 2<sup>nd</sup> sub-period:
    - June 15 – Aug. 31: 3 fish
    - Sept. 1 - ~~December 31~~ October 28: 4 fish (7 fish)
  - Option 3 – decrease bag limit during 2<sup>nd</sup> sub-period:
    - June 15 – Aug. 31: 3 fish
    - Sept. 1 – Dec. 31: ~~four (4)~~ three (3) fish



## Hearing Item #6 cont'd: Recreational Black Sea Bass (Part VII - section 7.14.2)

- 7% ASMFC reduction (options were not noticed but is now required per ASMFC)
  - Option 1 – shorten season for 1<sup>st</sup> sub-period:
    - ~~June 15~~ June 29 through Aug. 31: 3 fish
    - Sept. 1 – Dec. 31: 4 fish (7 fish)
  - Option 2 – shorten season for 2<sup>nd</sup> sub-period:
    - June 15 – Aug. 31: 3 fish
    - Sept. 1 - ~~December 31~~ October 20: 4 fish (7 fish)
  - Option 3 – decrease bag limit during 2<sup>nd</sup> sub-period:
    - June 15 – Aug. 31: 3 fish
    - Sept. 1 – Dec. 31: ~~four (4)~~ three (3) fish



## Hearing Item #7: Coastal Sharks (Part VII - section 7.24)

- Option 1 – Commercial: changes to Commercial Species Groups per ASMFC Addendum III to the Interstate Coastal Sharks Fishery Management Plan (FMP):
  - Commercial Species Groupings: Species managed under the ASMFC Interstate Fishery Management Plan (IFMP) for Atlantic Coastal Sharks shall be grouped into ~~six~~ **eight** commercial “species groups” for management purposes, hereafter referred to as: Prohibited Species, Research Species, Smoothhound Sharks, ~~Small Coastal Sharks, Non-Sandbar Large Coastal Sharks,~~ **Non-Blacknose Small Coastal Sharks, Blacknose Sharks, Aggregated Large Coastal Sharks, Hammerhead Sharks,** and Pelagic Sharks. These groupings apply to all commercial shark fisheries in state waters.
- Option 2 – Recreational: Increase minimum size for Hammerhead Sharks (Scalloped, Smooth, and Great)
  - **Minimum Fork Length of 54 (4.5 feet) 78 inches (6.5 Feet)**



## Hearing Item #8: Amendments to Part VII - Minimum Sizes of Fish/Shellfish, in their entirety

- general editing;
- remove duplicative language;
- add and/or correct statutory citations;
- add general provisions regarding possession limit changes;
- add general provision for transiting (edited and removed in species sections);
- add general provision for reporting requirements (edited and removed in species sections);
- add general provisions for penalties and appeals (edited and removed in species sections)





## Hearing Item #9: Recreational Striped Bass (Part XII)

- Option 1 - Status Quo:

28" length; 2 fish bag limit; No closed season

## Hearing Item #10: Commercial Striped Bass (Part XII)

- Option 1 – change opening date to fall on a Sunday:

- ♦ January 1 – June 57: Closed annually.
- ♦ June 68 – August 31: Seventy percent (70%) of general category quota.
- ♦ September 8 – December 31: Thirty percent (30%) of the general category quota.



## Hearing Item #11: Commercial Striped Bass Floating Fish Trap (Part XII)

- Option 1 – Add a Roll-over provision:

12.4.4 If the Division estimates that the Floating Fish Trap sector will not fully utilize its striped bass allocation prior to the end of the season, beginning on October 15, the Division has the authority to move the designated Floating Fish Trap sector allocation in to the general category fishery as set forth in this part. The Division will consult with the Floating Fish Trap Licensees or their designee prior to enacting any allocation roll over, and will maintain written correspondence in the form of a letter on file as proof of said consultation.

- Option 1 – Shorten Season: ~~January 1~~ **April 1** – December 31:



## Hearing Item #12: Amendments to Part XII – Striped Bass, in their entirety

- general editing;
- remove duplicative language;
- correct statutory citations;
- add general provisions regarding possession limit changes;
- add general provisions for penalties and appeals (edited and removed in species sections)



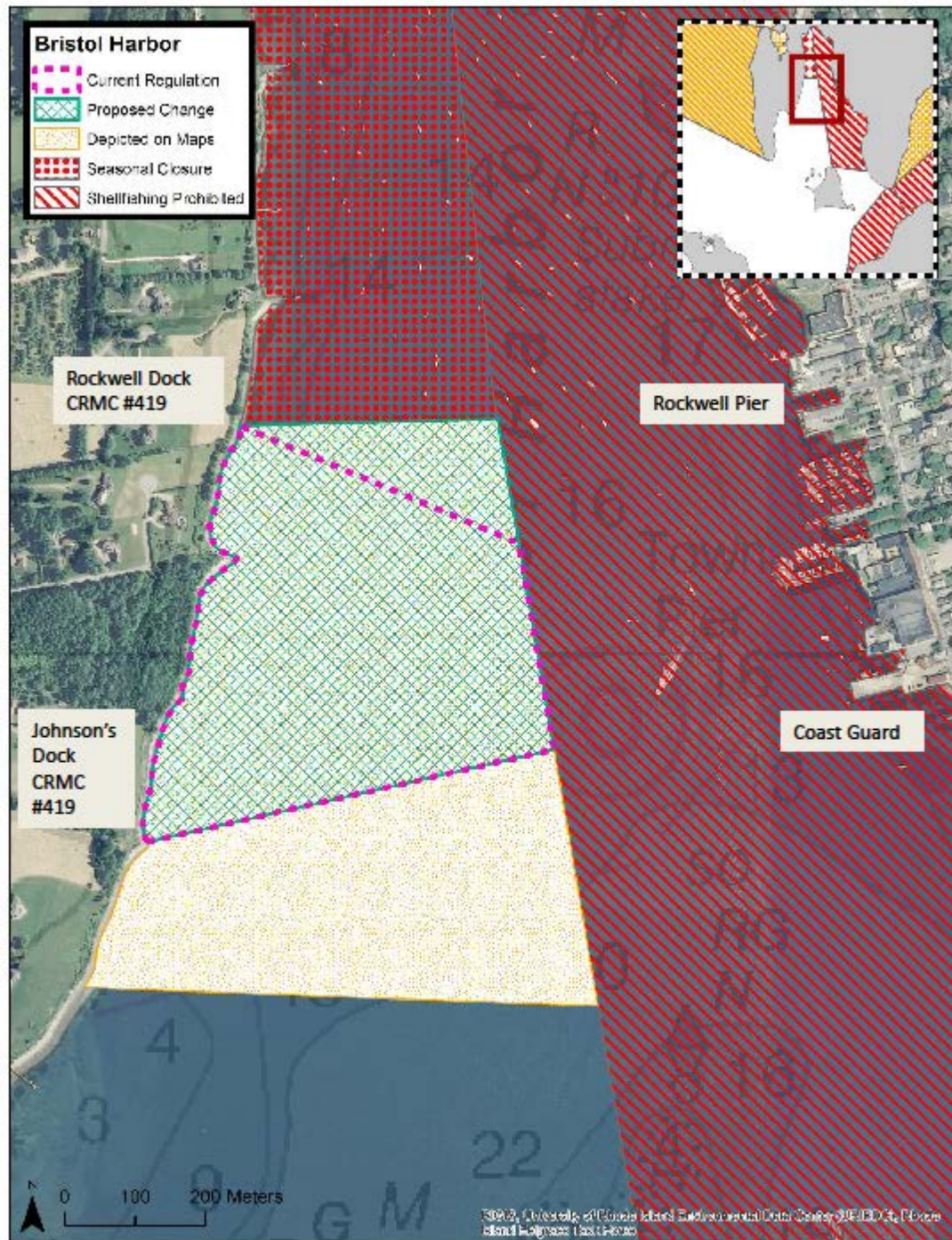
## Hearing Item #13: Correction of two technical errors delineating the borders of the Bristol Harbor Shellfish Management Area (Part IV - section 4.22)

- Inaccurate as written. Revised to accurately reflect original intention to now include a small (8 acre) triangle between the SMA and the pollution closure line.

The waters of Bristol Harbor described below are designated as a Shellfish Management Area. This area is defined as that area of Bristol Harbor southerly of a line between ~~Johnson's Dock (so-called) on the west side of Bristol Harbor and~~ CRMC permitted dock #419 located at 163 Poppasquash Road (so called Rockwell's Dock) to the northwest corner of the ~~Coast Guard Dock, on the east side of Bristol Harbor~~ Rockwell Pier municipal parking lot in Bristol Harbor, and north of a line between CRMC Permitted Dock # 1601 at the boat house to the rear of 363 Poppasquash Road (so called Johnson's Dock) ~~Rockwell's Dock (so-called) on the west side of Bristol Harbor,~~ and the northwest corner of the Coast Guard Dock in Bristol Harbor. The area is bordered on the west by the three (3) foot contour line along the shore between ~~Rockwell's Dock and Johnson's Dock~~ Dock #419 and Dock # 1601 and on the east by the existing pollution line.









## Hearing Item #14: Amendments to Part IV – Shellfish, regarding management of Conch (section 4.35)

- Commercial and Recreational Conch Season:
  - ♦ Option #1 – Status quo: Jan. 1 – Dec. 31.
  - ♦ Option #2 – 4.4% reduction: Open ~~January 1~~ May 1 – Dec. 31; closed Jan. 1 - April 30.
  - ♦ Option #3 – 5% reduction: Open Jan. 1 - July 31; closed August 1 - Sept. 31; open Oct. 1 - Dec. 31.



# Hearing Item #14 cont'd: Conch

- Minimum Sizes and schedule:

• Option 1 (width and length):

<u>Year</u>	<u>Shell Width</u>	<u>Shell Length</u>
<u>2014</u>	<u>3" (76.2 mm)</u>	<u>5-39/128" (134.74 mm)</u>
<u>2015</u>	<u>3-1/4" (82.55 mm)</u>	<u>5-11/16" (144.46 mm)</u>

or (width only)

<u>Year</u>	<u>Shell Width</u>
<u>2014</u>	<u>3" (76.20 mm)</u>
<u>2015</u>	<u>3-1/4" (82.55 mm)</u>

- Option 2 (width and length):

<u>Year</u>	<u>Shell Width</u>	<u>Shell Length</u>
<u>2014</u>	<u>2-7/8" (73.03 mm)</u>	<u>5-15/128" (129.98 mm)</u>
<u>2015</u>	<u>3" (76.20 mm)</u>	<u>5-39/128" (134.74 mm)</u>
<u>2016</u>	<u>3-1/8" (79.38 mm)</u>	<u>5-63/128" (139.50 mm)</u>
<u>2017</u>	<u>3-1/4" (82.55 mm)</u>	<u>5-11/16" (144.46 mm)</u>

or (width only)

<u>Year</u>	<u>Shell Width</u>
<u>2014</u>	<u>2-7/8" (73.03 mm)</u>
<u>2015</u>	<u>3" (76.20 mm)</u>
<u>2016</u>	<u>3-1/8" (79.38 mm)</u>
<u>2017</u>	<u>3-1/4" (82.55 mm)</u>



## Hearing Item #14 cont'd: Conch

- Minimum Sizes and schedule cont'd - Option 3:

(width and length)

<u>Year</u>	<u>Shell Width</u>	<u>Shell Length</u>
<u>2014</u>	<u>2-7/8" (73.03 mm)</u>	<u>5-15/128" (129.98 mm)</u>
<u>2016</u>	<u>3" (76.20 mm)</u>	<u>5-39/128" (134.74 mm)</u>
<u>2018</u>	<u>3-1/8" (79.38 mm)</u>	<u>5-63/128" (139.50 mm)</u>
<u>2020</u>	<u>3-1/4" (82.55 mm)</u>	<u>5-11/16" (144.46 mm)</u>

or (width only)

<u>Year</u>	<u>Shell Width</u>
<u>2014</u>	<u>2-7/8" (73.03 mm)</u>
<u>2016</u>	<u>3" (76.20 mm)</u>
<u>2018</u>	<u>3-1/8" (79.38 mm)</u>
<u>2020</u>	<u>3-1/4" (82.55 mm)</u>



## Hearing Item #14 cont'd: Conch

- Fishery Closure due to Eminent Public Health Risk (Biotoxins)(proposed new section 4.35(h):
  - A prohibition on the taking and landing of conchs from any of the waters under the jurisdiction of the State of Rhode Island shall be in effect upon a determination by the Office of Water Resources of an eminent public health risk caused by the consumption of conchs exposed to biotoxins. The prohibition on the taking and landing of conchs shall terminate upon a determination by the Office of Water Resources that an eminent public health risk from biotoxins caused by the consumption of conchs no longer exists.
- Revision/clarification of general provisions for (proposed new sections 4.35 (c), (d), and (e)):
  - Edited to be specific to Conch pots
    - Unauthorized Hauling of Conch Pots
    - Unauthorized Possession and/or Transfer of Conch Pots
    - Hauling or Setting Conch Pots at Night:



## Hearing Item #14 cont'd: Conch

- Commercial Possession Limit
- Option #1 – Status Quo: 35 bushels of conch per vessel per calendar day.
- Option #2 – 10% reduction: ~~35~~ seventeen (17) bushels of conch per vessel per calendar day.
- Option #3 – 20% reduction: ~~35~~ fourteen (14) bushels of conch per vessel per calendar day.
  
- Commercial Conch Quota – Annual Catch Limit
- Option #1:
- 4.35.1-4 Commercial Conch Fishery Quota – Annual Catch Limit (ACL) – The Division of Fish and Wildlife shall set an annual catch limit (ACL) for the commercial conch fishery. If the ACL is reached prior to December 31, the commercial conch fishery shall be closed for the remainder of the calendar year and shall open again on January 1<sup>st</sup> of the following year.



**Hearing Item #15:** Amendments to Part IV - Shellfish, in their entirety:

- re-format numbering/lettering;
- remove duplicative language;
- General editing;
- add and/or clarify description of Shellfish Management Areas (language added from Part III)
- add and/or correct statutory citations;
- add general provisions for penalties and appeals





**Hearing Item #16:** Amendments to Part III – Marine Fisheries Council, to remove the section regarding the description of Marine Life and Shellfish Management Areas

- Delete section 3.6 in its entirety in Part III to eliminate duplication of SMA/MLMA descriptions in multiple RIMF Parts and add and/or edit descriptions in other Parts (Part IV (Shellfish); Part XI (Comm. Fisheries) and Part XVI (Menhaden))

**Hearing Item #17:** Amendments to Part III – Marine Fisheries Council, in their entirety

- general editing;
- remove duplicative language



**Hearing Item #18:** Commercial fishing prohibition in designated experimental artificial reef locations in the Narragansett Bay Marine Life Management Area (Part XI – Comm. Fisheries; proposed new section 11.20);

**Commercial Fishing Prohibition in the Designated Experimental Artificial Reef Locations in the Narragansett Bay Marine Life Management Area – It shall be unlawful to engage in any commercial fishing (as defined in 20-1-3) in areas designated as experimental reef locations in the Narragansett Bay Marine Life Management Area, as described in RIGL § 20-3-4. To designate the exact artificial reef locations, the designated areas will be marked at their four corners with buoys and are more specifically delineated as:** (see regulations for specific Lat/Long locations)



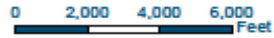
**Hearing Item #19:** Amendments to Part III – Commercial Fisheries, in their entirety

- general editing;
- remove duplicative language;
- correct statutory citations;
- clarify descriptions of Upper Sakonnet River Marine Life Management Area and Upper Narragansett Bay Trawling Area (descriptions removed in Part III and clarified in Part XI;
- add general provisions for penalties and appeals

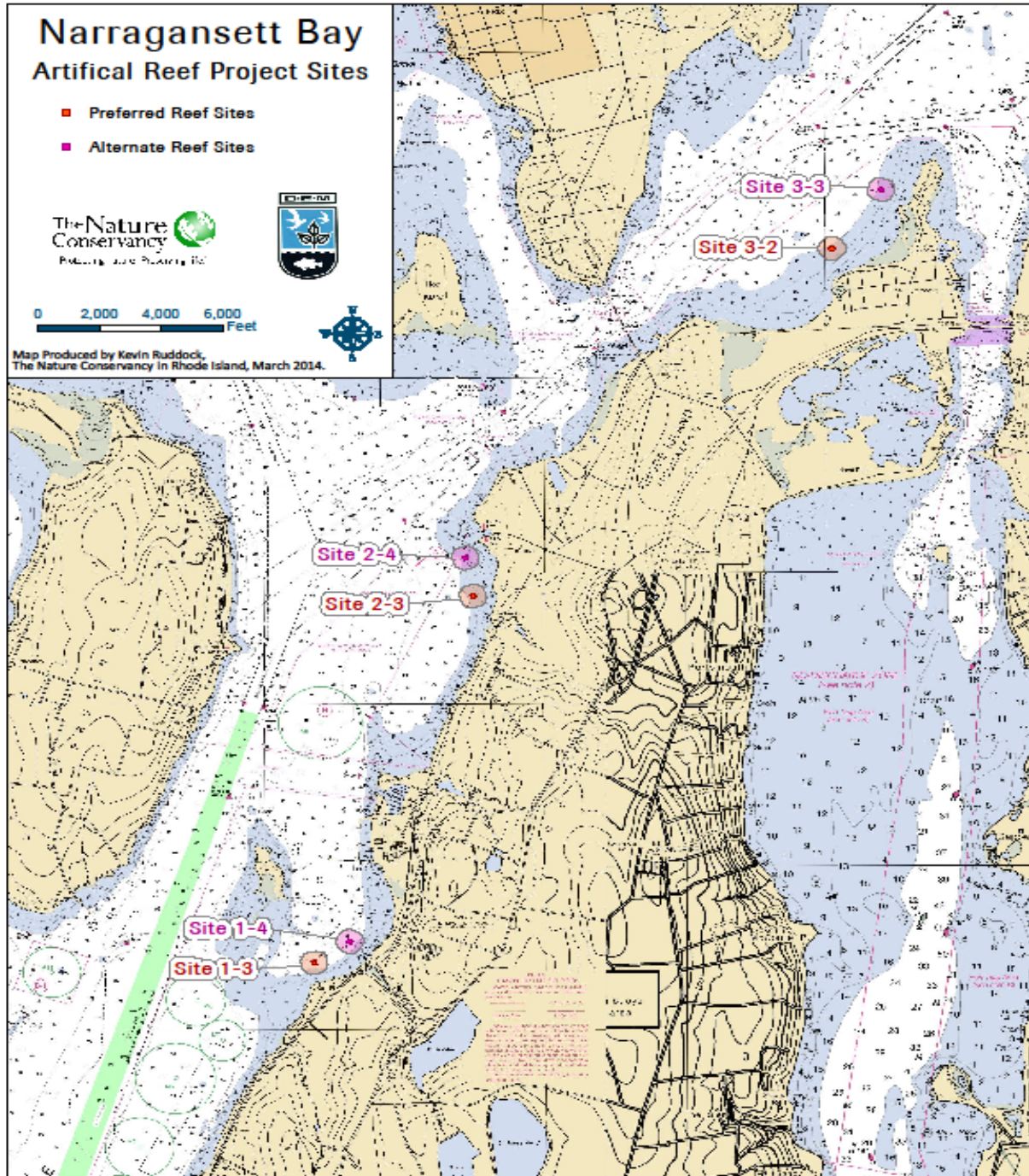


# Narragansett Bay Artificial Reef Project Sites

- Preferred Reef Sites
- Alternate Reef Sites



Map Produced by Kevin Ruddock,  
The Nature Conservancy in Rhode Island, March 2014.



## Hearing Item # 20: Commercial Menhaden (Part XVI)

- Option 1 – add possession limit during closure of Menhaden Mgmt. Area:

### 16.2.5 Opening/Closure of Fishery Based on Biomass Estimates:

(A) Biomass “Floor”:

(B) Biomass “Ceiling”:

**(C) A possession limit of 6,000 lbs per vessel per day will be allowed once the marine life management area closes.**

- Option 2 – clarification regarding non-directed fisheries:

16.3.1: The landing limit for Menhaden in RI will be unlimited until the quota has been reached, as determined by the DFW. Once the quota has been reached: (i) the landing limit will be zero for vessels associated with directed fisheries for Menhaden, including but not limited to purse seine operations, and (ii) the landing limit will be 6,000 pounds per vessel per day for all vessels not associated with directed fisheries for Menhaden. **Non-directed fisheries for Menhaden include but are not limited to cast net fishing and the floating fish trap fishery.**

- Option 3 – Episodic Event Set Aside Program end date:

**16.4(D) The Episodic Event Set Aside Program will end on November 1 annually or when the set aside quota has been harvested, whichever first occurs. If the Episodic Event Set Aside Program ends prior to November 1, a notice will be filed with the Secretary of State.**



## Hearing Item # 21: Amendments to Part XVI – Menhaden, in their entirety

- general editing;
- remove duplicative language;
- correct statutory citations;
- add general provisions for penalties and appeals





End of Slides!





Rhode Island  
Department of Environmental Management  
DIVISION OF FISH AND WILDLIFE  
3 Fort Wetherill Road  
Jamestown, RI 02835

401 423-1923  
FAX 401 423-1925

### SUMMARY OF PUBLIC COMMENTS

A public hearing was held on **March 25, 2014** at 6:00 PM in the Coastal Institute Building Auditorium, URI Narragansett Bay Campus, South Ferry Road, Narragansett, RI. Approximately 15 – 20 persons from the public were present.

Hearing Officer: M. Gibson

DEM Staff: M. Gibson, L. Mouradjian, G. Powers, N. Lengyel, S. Olszewski, T. Rosa, T. Angell, P. Duhamel, D. Costa

Public comments were solicited on the following twenty one items:

1) Amendments regarding management for recreational Summer Flounder:

- *S. Medeiros: representing RI Saltwater Anglers Assoc., commented that he supported option 1, status quo;*
- *M. Bucko: supported option 1, status quo.*

2) Amendments regarding management for recreational Winter flounder:

- *M. Bucko: representing RI Bait and Tackle shops, commented that he supported option 1, to liberalize season as proposed.*

3) Amendments regarding management for recreational Tautog:

- *M. Bucko: representing RI Bait and Tackle shops, commented that he supported option 2; change opening date from April 15 to April 1, and offered that data he reviewed showed that this earlier opening date would result in either none or very minimal increased effort in the fishery.*
- *S. Medeiros: supported option 2;*
- *J. Donahue: supported option 2.*

4) Amendments regarding management for commercial Tautog:

- *A. Eagles: recommended an increase in possession limit to 40 fish/vessel/day.*

5) Amendments regarding management for recreational Scup:

- *No comments were made for this hearing item.*

6) Amendments regarding management for recreational Black Sea Bass:

- *No comments were made for this hearing item.*

- 7) Amendments regarding management for Coastal Sharks:
  - *No comments were made for this hearing item.*
- 8) Amendments to Part VII - Minimum Sizes of Fish/Shellfish, in their entirety, for general editing; to remove duplicative language; to add and/or correct statutory citations; and to add general provisions regarding possession limit changes, transiting, reporting requirements, penalties and appeals
  - *No comments were made for this hearing item.*
- 9) Amendments regarding management for recreational Striped Bass:
  - *No comments were made for this hearing item.*
- 10) Amendments regarding management for commercial Striped Bass:
  - *J. Macari: commented that he supported option 1.*
- 11) Amendments regarding management for commercial Striped Bass floating fish trap:
  - *J. Macari: commented that he supported option 1 regarding addition of the rollover provision language as proposed.*
- 12) Amendments to Part XII – Striped Bass, in their entirety, for general editing; to remove duplicative language; to correct statutory citations; and to add general provisions regarding possession limit changes, penalties and appeals
  - *No comments were made for this hearing item.*
- 13) Amendments to correct two technical errors delineating the borders of the Bristol Harbor Shellfish Management Area (Part IV – Shellfish):
  - *No comments were made for this hearing item.*
- 14) Amendments to Part IV – Shellfish, regarding management of Conch:
  - a. Commercial and Recreational Season:
    - *K. Murgo: commented that he supported option 1, status quo, as the AP recommended option.*
  - b. Minimum sizes and schedule:
    - *K. Murgo: commented that he supported the AP recommended option, a 1/8” increase in length for this year and then to revisit the following year in order to review new data.*
  - c. Proposal to add a provision regarding a Fishery Closure due to Eminent Public Health Risk (Bio-toxins):

- *A. Eagles: commented that the specifics of the levels of bio-toxins that would result in a closure, and the methods for monitoring should be known before proceeding with this language.*
- d. Revision/clarification of general provisions for Unauthorized Hauling of Conch Pots, Un-authorized Possession and/or Transfer of Conch Pots, and Hauling or Setting Conch Pots at Night, to be specific to Conch Pots:
- *No comments were made for this hearing item.*
- e. Commercial Possession limits:
- *K. Murgo: commented that he supported option 1, status quo, as the AP recommended option;*
  - *A. Eagles: supported option 1, status quo.*
- e. Commercial Conch Quota – proposal to add an Annual Catch Limit:
- *No comments were made for this hearing item.*
- 15) Amendments to Part IV - Shellfish, in their entirety: to re-format numbering/lettering of sections; to remove duplicative language; for general editing; to add and/or clarify descriptions of Shellfish Management Areas; to add and/or correct several statutory citations; and to add general provisions regarding penalties and appeals
- *No comments were made for this hearing item.*
- 16) Amendments to Part III – Marine Fisheries Council, to remove the section regarding the description of Shellfish Management Areas:
- *No comments were made for this hearing item.*
- 17) Amendments to Part III – Marine Fisheries Council, in their entirety, for general editing; and to remove duplicative language
- *No comments were made for this hearing item.*
- 18) Amendments to Part XI – Commercial Fisheries, regarding a commercial fishing prohibition in designated experimental artificial reef locations in the Narragansett Bay Marine Life Management Area:
- *T. Kutcher, representing Save the Bay: In support of this proposal*
  - *S. Medeiros: In support of this proposal.*
  - *2 members of the audience: commented that wanted locations of before proceeding.*
- 19) Amendments to Part XI – Commercial Fisheries, regarding general editing; to remove duplicative language; to correct statutory citations; to clarify descriptions of Marine Life Management Areas; and add general provision for penalties and appeals:

- *No comments were made for this hearing item.*

20) Amendments regarding commercial Menhaden fisheries:

a. Option 1 – Proposal to allow for a possession limit of 6,000 lbs per vessel per day once the marine life management area closes:

- *M. Bucko: In support of option 1; support of this proposal;*
- *John Gardner: In support of this option;*
- *J. Macari: In support of this option;*
- *Rick Sousa from Arc-Bait: commented that wanted to be sure that transiting was allowed*

b. Option 2 – Proposal to add language for clarification regarding non-directed fisheries:

- *J. Donahue: In support of this option*
- *J. Macari: In support of this option*
- *M. Bucko: In support of this option*

b. Option 3 – Proposal to add and end date for the Episodic Event Set Aside Program:

- *M. Bucko: In support of this option*

21) Amendments to Part XVI – Menhaden, regarding general editing; to remove duplicative language; to correct statutory citations; and to add general provision for penalties and appeals.

- *No comments were made for this hearing item.*

M. Gibson closed the public hearing at approximately 6:35PM.

List of Exhibits:

1. Exhibit 1: Affidavit of Publication/Posting and Public Notice
2. Exhibit 2: Copy of Public Notice and annotated regulations.
3. Exhibits 3 - 13: Written comments received

*Prepared by P. Duhamel*

Mr. Peter Duhamel  
C/O RI Marine Fishery  
3 FT Wetherill Rd  
Jamestown RI 02835

Dear Mr. Peter Duhamel,

*Charter Boat*

We the ~~Bait and Tackle Shop~~ support these two proposals in the Public hearing on Tuesday, March 25, 2014 6PM at URI Corless Auditorium.

### Winter Flounder - Option #1

The Changing the season from a split two 30 day period only ~~60~~ days to now ~~306~~ days opening on

**March 1<sup>st</sup> and closing December 31**

Everything else remain the same 2- fish 12 inches except in Narragansett Bay north of the Colregs line, and in Potter Pond, Point Judith Pond and the Harbor of Refuge, where the harvest or possession of winter flounder is prohibited.

### Tautog -Option #2

**Earlier start day from April 16 now to April 1<sup>st</sup>**

3 fish from April 1 to May 31 minimum size 16 the rest of the regulation remains the same

*Charter Boat*  
~~Bait and Tackle Shop~~ Print and Sign

River Rebel Charter

Randell Bagwell CAPD

*[Signature]*

Bristol RI



Exhibit #5

Mr. Peter Duhamel  
C/O RI Marine Fishery  
3 FT Wetherill Rd  
Jamestown RI 02835

LUCKY BAIT & TACKLE  
289 Market Street  
Warren, RI 02885

Dear Mr. Peter Duhamel,

We the Bait and Tackle Shop support these two proposals in the Public hearing on Tuesday, March 25, 2014 6PM at URI Corless Auditorium.

**Winter Flounder - Option #1**

The Changing the season from a split two 30 day period only 60 days to now 306 days opening on

**March 1<sup>st</sup> and closing December 31**

Everything else remain the same 2- fish 12 inches except in Narragansett Bay north of the Colregs line, and in Potter Pond, Point Judith Pond and the Harbor of Refuge, where the harvest or possession of winter flounder is prohibited.

**Tautog -Option #2**

**Earlier start day from April 16 now to April 1<sup>st</sup>**

3 fish from April 1 to May 31 minimum size 16 the rest of the regulation remains the same.

Bait and Tackle Shop - Print and Sign

Lorraine Danti

*Lorraine Danti-owners*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUCKY BAIT & TACKLE  
289 Market Street  
Warren, RI 02885

Mr. Peter Duhamel  
C/O RI Marine Fishery  
3 FT Wetherill Rd  
Jamestown RI 02835

Dear Mr. Peter Duhamel,

We the Bait and Tackle Shop support these two proposals in the Public hearing on Tuesday, March 25, 2014 6PM at URI Corless Auditorium

### **Winter Flounder - Option #1**

The Changing the season from a split two 30 day period only **60** days to now **306** days opening on

**March 1<sup>st</sup> and closing December 31**

Everything else remain the same 2- fish 12 inches except in Narragansett Bay north of the Colregs line, and in Potter Pond, Point Judith Pond and the Harbor of Refuge, where the harvest or possession of winter flounder is prohibited.

### **Tautog -Option #2**

**Earlier start day from April 16 now to April 1<sup>st</sup>**

3 fish from April 1 to May 31 minimum size 16 the rest of the regulation remains the same.

Bait and Tackle Shop - Print and Sign

Ronald Mouchaw

OWNED

[Signature]

Breachway Bait & Tackle  
166 Charlestown Boh. Rd.  
Charlestown, RI 02813

Mr. Peter Duhamel  
C/O RI Marine Fishery  
3 FT Wetherill Rd  
Jamestown RI 02835

2/7/2014

Dear Mr. Peter Duhamel,

We the Bait and Tackle Shop support these two proposals in the Public hearing on Tuesday, March 25, 2014 6PM at URI Corless Auditorium.

### **Winter Flounder - Option #1**

The Changing the season from a split two 30 day period only **60** days to now **306** days opening on

**March 1<sup>st</sup> and closing December 31**

Everything else remain the same 2- fish 12 inches except in Narragansett Bay north of the Colregs line, and in Potter Pond, Point Judith Pond and the Harbor of Refuge, where the harvest or possession of winter flounder is prohibited.

### **Tautog -Option #2**

**Earlier start day from April 16 now to April 1<sup>st</sup>**

3 fish from April 1 to May 31 minimum size 16 the rest of the regulation remains the same.

Bait and Tackle Shop - Print and Sign

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**Rays Bait & Tackle**  
**287 Arnolds Neck Dr.**  
**Warwick, RI 02886**

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---

Mr. Peter Duhamel  
C/O RI Marine Fishery  
3 FT Wetherill Rd  
Jamestown RI 02835

#14

3-25-2014

Dear Mr. Peter Duhamel,

We the Bait and Tackle Shop support these two proposals in the Public hearing on Tuesday, March 25, 2014 6PM at URI Corless Auditorium.

### **Winter Flounder - Option #1**

The Changing the season from a split two 30 day period only **60** days to now **306** days opening on

**March 1<sup>st</sup> and closing December 31**

Everything else remain the same 2- fish 12 inches except in Narragansett Bay north of the Colregs line, and in Potter Pond, Point Judith Pond and the Harbor of Refuge, where the harvest or possession of winter flounder is prohibited.

### **Tautog -Option #2**

**Earlier start day from April 16 now to April 1<sup>st</sup>**

3 fish from April 1 to May 31 minimum size 16 the rest of the regulation remains the same.

Bait and Tackle Shop - Print and Sign

MICHAEL J BUCALO

Michael J Bucalo

191 STAFFORD RD

FALL RIVER MA 02721

Bucalo's Tackle Service

MEMORANDUM

TO: Peter DuHamel  
Division of Fish and Wildlife

FROM: Dr. Kathleen Castro  
URI Department of Fisheries, Animal and Veterinary Sciences

DATE: March 25, 2014

RE: Changes in whelk regulations

Thank you for the opportunity to comment on the changes proposed for the RI whelk fishery. I regret I cannot attend the public hearing but would like to add some observations and comments from the perspective of the new Sea Grant funded collaborative project (Developing information and local capacity to manage the RI whelk fishery, PIs: Castro (URI), Eagan (fisherman) and Angell (RI DEM)) that will be collecting information on the species and the fishery. The goal of the project is to promote co-management of the whelk fishery through education, research and participation. The whelk fishermen are not yet organized and have very little knowledge about stock assessment and management. They are very concerned about the resource but don't know yet how to make meaningful decisions that will accomplish the goal of a management plan. The RI Whelk Association is being formed and one workshop has been done with some of the fishermen to talk about research and management. We also have met with Mark Gibson to discuss the type of data needed for better assessment that this project will be able to provide. I believe we are on track for making a significant contribution to the management of the fishery. The fishermen are willing to contribute fully to data collection, research and management and hope to begin that process right away. The project is for 2 years.

We realize that action is needed for the resource given the new information about size at maturity of *channeled whelk*. But I also hope that there is a window of opportunity here for the project to contribute new knowledge before some other management actions are taken (such as excessive size increases, quotas, seasonal closures and annual catch limits). For instance, it is important to have a more appropriate fisheries survey tool than the trawl for whelk. The study fleet will be able to provide better spatial and temporal data on sublegal whelk distribution and abundance, as well as *knobbed* and *channeled* whelk distribution; the research on *knobbed whelk* will provide better estimates on growth, age and maturity. The two species should be separated at some point for management as their life histories appear to be different, but we will know more about this at the end of the project. The concern about ecosystem cascades can also be addressed with a simple predator-prey model (clams and whelks) that can aid in balancing the two major state fisheries regulations. Gear selection and catchability will be examined using cameras and divers.

We are fortunate to have this type of collaborative research and outreach project available at this time. This project and the fishery can hopefully turn out to be a “model” fishery where the managers, scientists and fishermen are all together gathering data, doing research and making decisions for the good of the resource and the fishery. Please consider that the potential for providing better data for decision making is in our hands and allow some flexibility in the pending management decisions. It is so very important that fishermen who make the effort feel that they are being heard and that their contribution is part of the decision making process.

Again, thank you for the opportunity to comment. If you have any questions, please feel free to contact me at 401-874-5063 or [kcastro@uri.edu](mailto:kcastro@uri.edu)



March 24, 2014

Rhode Island Marine Fisheries Council (RIMFC)  
C/o Mr. Robert Ballou, Chairman  
State of Rhode Island and Providence Plantations

***Re: Proposal to Recalculate the Biomass "Floor" for Atlantic Menhaden***

In February 2014, Save The Bay proposed to the Menhaden Advisory Panel a ban on harvesting Atlantic Menhaden by purse seine in all Rhode Island State waters. The objective of our proposal was to urge Rhode Island Department of Environmental Management (DEM) to begin restoring the menhaden population in Narragansett Bay to healthy, productive levels. **Our goal is a restored, robust population of menhaden that will benefit commercial and recreational fishermen, wildlife, water quality, and the general public.** After meeting with DEM fisheries biologists and administrators, Save The Bay is now proposing an alternative approach to meeting that goal.

**Save The Bay urges the RIMFC to recommend that the DEM recalculate and increase the biomass floor to a level that will consider all of the ecosystem services that menhaden provide**, including forage for numerous fishes, wading birds, waterfowl, crustaceans, and mammals, as well as nitrogen removal and dispersal benefits. We urge the RIMFC to recommend to the Director of DEM that these changes are implemented before the 2014 season.

Save The Bay understands that the Atlantic menhaden population is largely controlled by the collective management of the Atlantic states, and that the RI and MA fisheries represent a small proportion of the overall pressure on the species. With recent coast-wide management aimed at restoring menhaden levels being implemented, we feel that now is the right time for Rhode Island to put a framework for local menhaden restoration into place. **We urge the RIMFC and DEM to recognize that the multiple benefits provided by living menhaden clearly justify maintaining a high biomass in Narragansett Bay for the entire season.**

We have learned that even in this time of low coast-wide abundance, menhaden biomass in Narragansett Bay can exceed **20-million pounds**; approaching historic healthy levels (DEM unpublished data 2008). DEM has acknowledged that this level of abundance greatly reduces user conflicts, as it ensures adequate benefits for all users. **The current floor of 1.5-million pounds is less than one-tenth of those healthy levels.** This inadequate floor considers only forage potential for two finfish species and is ineffective at meeting the additional requirements of the numerous fish, shellfish, bird, and mammal species that directly and indirectly rely on menhaden for survival. And, it does not consider the additional water quality benefits that menhaden provide to the general public. **It is not nearly enough.**

Save The Bay stands firm on the strong justifications for restoring menhaden in the Bay that we stated in our February proposal:

**Menhaden provide direct critical forage for a host of Bay species**, not just for our two most visible game fishes. Menhaden serve a keystone role of converting abundant, planktonic and detrital resources into edible biomass for numerous game and commercial fish species, lobsters, crabs, wading birds,

diving ducks, osprey, and seals. These species provide economic, environmental, and cultural benefits for the entire Narragansett Bay community.

**Menhaden are an integral component in the food web of Narragansett Bay** and may affect important species *indirectly*. For example, as the preferred food source for striped bass, menhaden abundance plays a critical direct role in the abundance and health of this important game fish (Uphoff 2003, Walter et al. 2003). In southern New England, striped bass feed primarily on lobsters and rock crabs during the spring, shifting to menhaden in the summer and fall, when they are abundantly available (Nelson et al. 2006). If menhaden are not readily available, striped bass will focus on other species, including lobsters (Walter et al. 2003; Nelson et al. 2006). It has been estimated that striped bass consume three times the numbers of lobsters taken by southeastern New England fisheries (Nelson et al. 2006). This suggests that low levels of menhaden in the Bay may put lobsters and lobstermen at risk.

**Menhaden once spawned in Narragansett Bay.** Menhaden spawn in New England coastal waters and embayments. Their eggs and larvae provide food for fish larvae and mollusks, while young of the year menhaden directly graze on phytoplankton blooms and provide preferred forage for a host of fish and wading birds. Juvenile menhaden are also an important food source for commercial and game fish species such as striped bass, bluefish, weakfish, and summer flounder. However, since the mid-1970s, breeding in Narragansett Bay has disappeared (Gibson 2007). It is unclear what the cause of decline was or if it can be reversed. However, it stands to reason that increasing menhaden residence time and densities in the Bay could contribute to any management program aimed at spawning recovery.

**Menhaden can remove substantial nitrogen from Narragansett Bay.** Durbin and Durbin (1998) estimated that menhaden removed 476,000 lbs. of nitrogen (net) from Narragansett Bay in 1976. That amount is a significant proportion of the nitrogen budget of the Bay. For context, that is over eight times the amount of additional nitrogen that is expected to be removed yearly by a recent \$13-million upgrade to the Narragansett Bay Commission's Bucklin Point facility (NBC, unpublished data). The potential value that living menhaden can provide for nitrogen removal clearly outweighs their market value for bait or reduction.

**Menhaden can redistribute nutrients throughout the Bay.** Menhaden eat plankton from nutrient rich areas and deposit waste products in other areas. This process can redistribute nutrients, transferring nutrients from nutrient-rich to nutrient-poor surface waters (Durbin and Durbin 1998).

**Most other Atlantic states have banned or restricted industrial fishing for menhaden** in all or parts of their state waters, recognizing the damaging effects of mass menhaden extraction on local ecosystems and communities. New Hampshire, Connecticut, Delaware, Maryland, and North Carolina prohibit purse seining in all state waters; Massachusetts prohibits mobile gear in Buzzards Bay and seasonally around Cape Cod, and New York bans purse seining in its estuaries. Narragansett Bay and our surrounding state waters are no less worthy of such protection.

**The health of Narragansett Bay depends on DEM implementing ecosystem-based management.**

Aquatic species exist in a complex food web in which the status of every species is dependent on its competitive and predatory interactions with several other species. NOAA has recently recognized the importance of ecosystem interactions in fisheries management in their latest Draft Five-Year Strategic Plan. Menhaden's role as a keystone species is an exemplary testament for prudent ecosystem-based management in marine waters. While the recovery of the larger population of Atlantic menhaden is being pursued through the collective management of the Atlantic states, the **Narragansett Bay community will not enjoy the benefits of species recovery unless a framework is put in place to ensure**

**that abundant menhaden remain in Narragansett Bay throughout the season.** We urge DEM to choose to manage menhaden for the recovery of Narragansett Bay and for the multiple benefits and services that menhaden provide to the public, and not for the profit of very few at the loss of all others.

We propose that it is DEM's obligation to immediately manage for increased menhaden abundance in Narragansett Bay, in the clear interest of the public. Thank you for considering this proposal. Should you have any questions, please do not hesitate to contact me at 272-3540 x116.

Respectfully submitted,



Tom Kutcher  
Narragansett Baykeeper

CC:

Janet Coit, Director of DEM  
Mark Gibson, Deputy Chief, DEM Division of Fish and Wildlife

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- Durbin, A. G., & Durbin, E. G. (1998). Effects of menhaden predation of plankton populations in Narragansett Bay, Rhode Island. *Estuaries*, 21(3), 449-465.
- Gibson, M. (2007). Estimating seasonal menhaden abundance in Narragansett Bay from purse seine catches, spotter pilot data, and sentinel fishery observations. Rhode Island Department of Environmental Management, Division of Marine Fisheries, Jamestown, RI.
- Nelson, G. A., Chase, B. C., & Stockwell, J. D. (2006). Population consumption of fish and invertebrate prey by striped bass (*Morone saxatilis*) from coastal waters of northern Massachusetts, USA. *J. Northw. Atl. Fish. Sci.*, 36, 111-126.
- Uphoff, J. H. (2003). Predator-prey analysis of striped bass and Atlantic menhaden in upper Chesapeake Bay. *Fisheries Management and Ecology*, 10(5), 313-322.
- Walter, J. F., Overton, A. S., Ferry, K. H., & Mather, M. E. (2003). Atlantic coast feeding habits of striped bass: a synthesis supporting a coast-wide understanding of trophic biology. *Fisheries Management and Ecology*, 10(5), 349-360.

## McNamee, Jason (DEM)

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**From:** Angell, Thomas (DEM)  
**Sent:** Tuesday, March 18, 2014 8:46 AM  
**To:** Duhamel, Peter (DEM); McNamee, Jason (DEM)  
**Cc:** 'eelman1@verizon.net'  
**Subject:** FW: RE: Conch size proposal

Pete & Jason,

The email(s) below are from a member of the ad hoc whelk committee with a proposal for a schedule of minimum size increases for the whelk fishery. His proposed option is described below. Please include this as part of the March 25, 2014 RIMFC public hearing record. Just for clarification, he is proposing to use only the shell length measurement to be the determinant of legal size. Any whelk that does not have a shell length meeting these minimum size standards would have to be returned to the water (discarded).

<u>Year</u>	<u>Shell Length</u>
2014	5"
2015	5-1/8"
2016	5-1/4"
2017	5-3/8"
2018	5-1/2"

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**From:** [eelman1@verizon.net](mailto:eelman1@verizon.net) [<mailto:eelman1@verizon.net>]  
**Sent:** Monday, March 10, 2014 6:03 PM  
**To:** Angell, Thomas (DEM)  
**Cc:** [gtschey@cox.net](mailto:gtschey@cox.net)  
**Subject:** Re: RE: Conch size proposal

Tom, Yes, these changes look ok to me. The goal of 15/16 would not be reached but it should be more acceptable to industry.  
Thanks for your help Dick

On 03/10/14, Angell, Thomas (DEM)<[Thomas.Angell@DEM.RI.GOV](mailto:Thomas.Angell@DEM.RI.GOV)> wrote:

Dick,  
Here is your proposal that I revised as per our phone conversation. Please send me a reply just so I know you approve of the revisions. If I messed up your calculations, please let me know what numbers you want to propose.

<u>Year</u>	<u>Shell Length</u>
2014	5" (corresponds to current 2-3/4" minimum width)
2015	5-1/8"
2016	5-1/4"
2017	5-3/8"
2018	5-1/2"

Regards, Tom

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**From:** [eelman1@verizon.net](mailto:eelman1@verizon.net) [<mailto:eelman1@verizon.net>]  
**Sent:** Tuesday, March 04, 2014 2:47 PM  
**To:** Angell, Thomas (DEM)  
**Subject:** Conch size proposal

Tom, Please accept my proposal as option 4 for the minimum size of conch. This would be for an overall length only requirement. It would discontinue the diameter conversion.

Year	Shell Length
2014	4 7/8" 120.65mm
2015	5" 127mm

2016	5 1/8"	130.17mm
2017	5 1/4"	133.35mm
2018	5 3/8"	136.75mm
2019	5 1/2"	139.70mm
2020	5 11/16"	144.46mm

This would accomplish the same goal of 15/16" being a little less painful to industry in the process.  
Thanks Richard Hopkins

## McNamee, Jason (DEM)

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**From:** Katie Eagan <eagan.katie@gmail.com>  
**Sent:** Tuesday, March 25, 2014 11:50 AM  
**To:** Duhamel, Peter (DEM)  
**Cc:** Jeff Grant; Ballou, Robert (DEM); Kathy Castro; Angell, Thomas (DEM)  
**Subject:** Public Comment: Amendments to Part IV - Shellfish, regarding management of Conch including addition of provision regarding a Fishery Closure due to Eminent Public Health Risk (Bio-toxins);(section 4.35);

Thank you for the opportunity for public comment. I am concerned about the potential management actions presented by DEM for whelk management. While it is important for us to be conservative in management, these changes will have a drastic economic and social impact on the fishermen involved.

As of now, data is not available to support the proposed quotas, open/closed seasons, or catch limits. While we do have size at maturity data, there is still a lot to be learned about the species.

Through the Shellfish Management Plan we have a two year project funded to collect more data and include whelk fishermen in the management process. This project is the first step to comanagement, something new to RI fisheries management. The fishermen along with scientists will collect data to create a more accurate stock assessment and understanding of whelks in Rhode Island waters. We will also get a better understanding of distribution, behavior, reproduction, and impacts on other species, specifically shellfish of which they are a predator.

I am asking that the council recognize the recommendations from the ad hoc whelk committee on size increase. Anything more would cause a drastic impact on the lives of the fishermen involved.

Thank you,  
Katie Eagan  
President Rhode Island Whelk Fishermens Association

Regarding : State of Rhode Island Marine Fisheries Regulations for Menhaden.

For public comment on 03/25/2014 and to Janet Coit - Director and the RI Marine Fisheries Council,

I am writing this letter seeking permission to fish the closed areas of the Providence River and East Greenwich Cove for Menhaden during the 2014 fishing season. I will be using a cast net.

I am seeking either a:

- (1) special permit
- (2) exemption
- (3) research permit
- (4) open the closed areas up to cast netters with the proper licenses and amending law 16.2.8
- (5) create a new permit
- (6) or any other legal access for cast netting

The law restricting access to the closed areas 16.2.6 was initially written to keep Purse Seiners only out and prevent conflict between them and recreational fisherman + rod and reel commercial fisherman. Also to prevent the Purse Seiners from taking all the Menhaden resulting in the many predator fish leaving the river in search of food.

16.2.6 Permanent Closures : The following areas are permanently closed to purse seining for menhaden.

Providence River : All waters north of a straight line running from Rocky Point to Conimicut Light to Nayatt Point.

Greenwich Bay : All waters in Greenwich Bay west of a line from the flag pole on Warwick Point to Sandy Point.

The law 16.2.8 was initially written as a bag limit on recreational fisherman.

The reasons why I want to fish the closed areas. One is to help me to provide the bait shops with a more reliable supply of bait. The purse seiners clean out alot of the bait in the open areas. The open areas are much harder for a cast netter to catch Menhaden in because of the water depths, the depleted amount of bait and the fish move faster and are harder to catch in the deeper water.

Cast netters provide the freshest bait possible to the bait shops. The bait is caught to fill orders on an as needed basis. There is no waste. There is almost never any by-catch and if there is it can usually be released alive. Fisherman prefer the fresh caught bait because it stays on the hook better and it catches fish better than poor quality, older or frozen bait.

Many fisherman can not catch there own bait. Many fisherman do not have enough time to find and catch there bait. Many fisherman may have worked all week and may not want to waste the time

locating and finding the bait and would rather spend there time fishing for a trophy, dinner or sport. Shore fisherman, commercial boat fisherman, recreational boat fisherman, bait + tackle shops and even the guy catching the bait all benefit from fresh caught Menhaden. The only one who looses is the hungry fish that eat's the bait.

For Comparision : Purse Seiners are allowed 120,000 THOUSAND Pounds per day. A Cast Netter would not be able to catch anywhere close to 120,000 pounds in a whole season. Purse seiners are allowed to not only take a large amount of bait at once but take several whole schools per day. A Cast Netter takes a small amout of fish from a school or several small schools per day.

Allowing a cast netter or a few cast netters in the closed areas would not hurt the schools of menhaden. The market for fresh caught Menhaden is only so big.

For a Cast Netter, fishing locations change all the time because the fish are always moving so you are usually not fishing the same school or the same area for long. Whole schools are not wiped out and predator fish will stay close by. Fish have tails and migrate in and out of rivers and harbor looking for food, to spawn, running from predators, with big tides and changing weather.

Thank You for your consideration,

John Donahue

30 Pleasant Street

Assonet, MA 02702

Non Resident / Rhode Island Commercial Permit # 1285



State of Rhode Island  
Department of Environmental Management  
Attention: Peter Duhamel

#13

March 25, 2014

Dear Mr. Duhamel,

My name is Jennie Bichrest , and I own Purse Line Bait in Maine. I am writing to you and the Committee to urge you to approve the proposed changes to your regulations. I would also urge that you continue to support the purse seine fishers in your waters as your state has done an awesome job protecting the needs of both commercial ventures and recreational users alike. More states need to do that. I just want to say that we depend on the Menhaden from Southern New England almost entirely. Not only, do businesses like mine depend on this fishery, but the support businesses like, trucking companies, fuel companies that fuel those trucks and the drivers that steer the trucks.

Maine has similar regulations, to Rhode Islands that seek to satisfy all concerns. It is important to lay out areas that fish can seek reprieve but balance it out with limited commercial seine operations as we in Maine have seen huge die-off in the past where people did not want seining then begged us to come and catch when they were dying on the shores. Thank you for your consideration and letting me comment.

Sincerely

Jennifer Bichrest  
Owner /President  
Purse Line Inc



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

BUREAU OF NATURAL RESOURCES  
FISH AND WILDLIFE  
&  
LAW ENFORCEMENT



**RHODE ISLAND MARINE FISHERIES**  
**~~STATUTES AND~~ REGULATIONS**

**Part XI**  
**Commercial Fisheries**

**~~December 19, 2013~~**

**ANNOTATED REGULATIONS**  
**MARCH 25, 2014 PUBLIC HEARING**

**AUTHORITY:** These regulations are adopted pursuant to Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

**\*PUBLIC HEARING ITEM # 19\***

**General editing; to remove duplicative language; to correct statutory citations; to clarify descriptions of Marine Life Management Areas; and add general provision for penalties and appeals;**

~~STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT~~

~~BUREAU OF NATURAL RESOURCES~~

~~FISH AND WILDLIFE  
&  
LAW ENFORCEMENT~~

**~~RHODE ISLAND MARINE FISHERIES  
STATUTES AND REGULATIONS~~**

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~~STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT~~

~~BUREAU OF NATURAL RESOURCES  
FISH AND WILDLIFE  
&  
LAW ENFORCEMENT~~

~~**RHODE ISLAND MARINE FISHERIES  
STATUTES AND REGULATIONS**~~

**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.

**AUTHORITY**

These regulations are adopted pursuant to Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

~~**ADMINISTRATIVE FINDINGS**~~

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

**APPLICATION**

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

**DEFINITIONS**

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

**SEVERABILITY**

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

**SUPERSEDED RULES AND REGULATIONS**

On the effective date of these rules and regulations, all previous rules and regulations, and any policies regarding the administration and enforcement of Part XI 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.

**R.I. Marine Fisheries ~~Statutes and~~ Regulations**  
**PART XI - COMMERCIAL FISHERIES**

11.1 Commercial Fishing: No person shall engage in the taking for sale by any manner, method, or contrivance, of any marine finfish, shellfish, crustacean, or other invertebrate; and no vessel, boat, trap, seine, or other fishing gear shall be used in the taking for sale of any marine finfish, shellfish, crustacean, or other invertebrate unless a license therefor has been obtained as provided in this Title (RIGL 20-4-1; Penalty ~~-Part 1.16; (RIGL 20-1-16)~~)

**Otter Trawls, Pair Trawls, and Beam Trawls**

11.2 Areas Prohibited: Unless otherwise specified in regulations adopted by the ~~Marine Fisheries Council~~ **Department**, and except for those areas described in § 20-4-3 (~~Part 11.4~~), no person shall operate a beam, pair, or otter trawl or other mechanical trawling device in the Sakonnet River, Narragansett Bay, in Point Judith Pond, so-called, in the towns of Narragansett and South Kingstown, or the Harbor of Refuge, so-called, in the town of Narragansett, or in Potter Pond, so-called, in the town of South Kingstown, or in Great Salt Pond, so-called, in the town of New Shoreham (RIGL 20-4-2; ~~Penalty 20-1-16~~).

11.3 Areas Allowed: Any **duly** licensed resident commercial fisherman and a nonresident commercial fisherman licensed pursuant to § 20-2-28, may operate otter, beam, or pair trawls, or other mechanical trawling device subject to rules and regulations of the ~~Marine Fisheries Council~~ **Department**, in the area of Narragansett Bay and Sakonnet River south of a line, extending from [a DEM marker at] Spink Neck in the town of North Kingstown in a northeasterly direction to [a DEM marker at] Pine Hill Point on Prudence Island and from a point at Homestead Dock on the easterly shore of Prudence Island, thence northeasterly to Hog Island shoal light, thence to the north abutment of Mt. Hope Bridge in the town of Bristol, and south of a line extending from McCurry Point, so-called, on the east side of the town of Portsmouth northeasterly in a line to the southerly point of Jack's Island, so-called, in the town of Tiverton. The area subject to this section may be changed by rules and regulations adopted by the ~~Marine Fisheries Council~~ **Department** (RIGL 20-4-3; ~~Penalty -Part 1.16; (RIGL 20-1-16)~~).

~~NOTE: Also refer to Parts 11.4, 11.14, and 11.19~~

~~11.4 Penalties: Any person who operates an otter, beam, or pair trawl, or other mechanical trawling device without a license as provided in 20-4-3 shall, upon conviction, be fined five hundred dollars (\$500) for each offense or may be imprisoned not exceeding thirty (30) days, or both. In addition to any fines imposed for failure to secure a license, the person shall be subject to the same penalties as set forth in §20-1-16 should the person set a beam, pair, or otter trawl, or other mechanical trawling device in areas prohibited by §20-4-2 or rules adopted under this section. (RIGL 20-4-4)~~  
**Repealed.**

11.5 Seines, Fyke Nets, and Trawling Regulations in Ponds and Rivers: It shall be

illegal to set, haul, and/or maintain a seine along the shoreline within one half (½) mile in both directions of the seaward entrance to any of the ponds and rivers listed below when the area is open to the sea. This seining prohibition shall also extend seaward for a distance of three hundred (300) yards. The following areas shall be covered by this regulation: Quicksand Pond and channel, Tunipus Pond and channel, Cards Pond and channel, Trustom Pond and channel, Quonochontaug Pond and channel, Charlestown Pond and channel, **Brightman Winnapaug** Pond and channel. ~~It shall be illegal to set, haul, and/or maintain a seine in the Harbor of Refuge and within one hundred (100) yards of the Harbor of Refuge Breakwater.~~ Fyke nets are prohibited in all of the Salt Pond channels described in these regulations (refer to def. section).

In addition, it is illegal to set, haul, and/or maintain a trawling device in any of the channels, ponds, and/or rivers as follows: Quicksand Pond and channel, Tunipus Pond and channel, Briggs Marsh and channel, Round Pond and channel, Narrow River and channel, Point Judith Pond and channel, East Pond and channel, Potter Pond and channel, The Harbor of Refuge, Card Pond and channel, Green Hill Pond and channel, Trustom Pond and channel, and **Brightman Winnapaug** Pond and channel. ~~It shall be illegal to set, haul, and/or maintain a trawling device within Narrow River and channel, and within three hundred (300) yards of the seaward entrance to the river. In addition, it shall also be illegal to seine in Narrow River channel and within 300 yards of the seaward entrance to the river (RIMFC REGULATIONS) (Penalty – Part 3.03; (RIGL 20-3-3).~~

#### 11.6 Seines, Fyke Nets, Trawling Devices, and Gill Net Regulations by Geographic Area:

11.6.1 Pawcatuck River and Little Narragansett Bay: Except as herein provided for Menhaden, it shall be illegal to set, maintain, or haul a gill net for any species in that portion of Rhode Island waters in the Pawcatuck River or Little Narragansett Bay and within one and one half (1 ½) miles south (true) and west (true) of Napatree Point. Gill netting for Menhaden will be permitted with a Size No. 1 net provided that the net is constantly tended by the individual setting the net, and provided that the net does not exceed one hundred (100) feet in length and contain a mesh size greater than three and three quarters (3 ¾) inches stretched). It shall be unlawful to retain any other species of fish captured in a Menhaden gill net in Little Narragansett Bay or the Pawcatuck River. With the exception of seining between February 1 and April 15 of each year, all netting (including Menhaden gill netting) shall be prohibited north of a line from Pawcatuck Rock to Thompson Point. ~~(RIMFC REGULATION) (Penalty – Part 3.3; (RIGL 20-3-3).~~

11.6.2 Point Judith Pond and Potter Pond: All netting, except licensed fish traps, shall be prohibited in the Harbor of Refuge and the southern portion of Point Judith Pond. This area shall be defined as including the water area encompassed by the Harbor of Refuge Breakwater and will be bounded on the north by a line from Strawberry Hill Point to High Point, and on the east by the Great Island Bridge. Gill netting will be prohibited in Point Judith Pond and channel,

East Pond and channel, Potter Pond and channel, the Interior Harbor of Refuge, and within one hundred (100) yards seaward of the Harbor of Refuge Breakwater. Otter trawling inside the Harbor of Refuge, Point Judith Pond, East Pond, and within one hundred (100) yards seaward of the Harbor of Refuge Breakwater shall be prohibited. It shall be illegal to set, haul, and/or maintain a seine in the southern portion of Point Judith Pond (as defined above), the Harbor of Refuge and within one hundred (100) yards seaward of the Harbor of Refuge Breakwater. In addition, in the northern portion of Point Judith Pond, all netting shall be prohibited in the Narrows bounded on the west by a line from Betty Hull Point to Short Point, and on the east by a line from Blue Rock Point to Old Cellar Point. All netting shall also be prohibited north of a line from Ram Point to Squally Point (~~RIMFC REGULATION~~) (~~Penalty – Part 1.16; (RIGL 20-1-16)~~).

11.6.3 Potter Pond and Channel: It shall be illegal to set, haul, and/or maintain a gill net or otter trawl in Potter Pond and channel. All netting in Potter Pond channel shall be prohibited between Gooseberry Island on the east end of the channel to the west end of Potter Pond channel. Netting will be permitted in Succotash Marsh. In the northern portion of Potter Pond, all netting shall be prohibited within one hundred (100) feet of the Captain's Brook (~~RIMFC REGULATION~~) (~~Penalty – Part 1.16; (RIGL 20-1-16)~~).

11.6.4 Narrow River: It shall be illegal to set, haul, and/or maintain a trawling device or gill net in Narrow River channel. All netting shall be prohibited in Narrow River channel (refer to definition section), and within three hundred (300) yards of the seaward entrance to Narrow River. In addition, all netting shall be prohibited in Narrow River between Middle Bridge and a point located eight hundred (800) feet north of Bridgetown Road Bridge (Route 138), within one hundred (100) feet north and south sides of the upper Narrows, and within one hundred (100) feet east and west of the seaward mouth of Gilbert Stuart Brook (~~RIMFC REGULATION~~) (~~Penalty – Part 1.16; (RIGL 20-1-16)~~).

11.6.5 Charlestown and Quonochontaug Ponds: Otter trawling in Charlestown Pond and Quonochontaug Pond is prohibited on Saturdays, Sundays, and official State holidays: New Year's Day, Martin Luther King Day, Memorial Day, Independence Day, V.J. Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas. Otter trawling is also prohibited in the areas defined as follows:

11.6.5-1 Charlestown Pond: South of a line between Marsh Point and Horseshoe Point on the Arnolds shore, west of a line between DEM markers on Marsh Point and Marsh Neck Point. The prohibited area is bounded on the west by a line between the east shore of the Foster Cove channel and a DEM marker on the barrier beach.

11.6.5-2 Quonochontaug Pond: South of a line running easterly from a DEM marker at the end of Quahaug Point to the northern end of Nopes

(Barn) Island. The area is bordered on the west by a line running south from Quahaug Point to a DEM marker on the barrier beach.

All fixed gear is prohibited in the Foster Cove Channel and in the narrows in Charlestown Pond. ~~(For a description of the Charlestown and Quonochontaug Channel areas, refer to the map section.)~~ Fyke nets are prohibited in both ponds between June 15 and September 15 annually ~~(RIMFC REGULATION) (Penalty - Part 3.3; (RIGL 20-3-3).~~

**11.6.6 Upper Sakonnet River Marine Life Management Area: The area is defined as that portion of the Upper Sakonnet River which lies north of a line from McCurry Pt. in Portsmouth to the southern end of Jack's Island (so-called) in Tiverton; and that portion of the Sakonnet River which lies south of the Sakonnet River Bridge (Rt. 24) to the southern boundary.**

~~(a) The Upper Sakonnet River Marine Life Management Area as defined in Part 3.6 **This area** is completely closed to trawling devices **(as defined in RIMFR Part I)** (RIMFC REGULATION) (Penalty - Part 3.3; (RIGL 20-3-3).~~

Statement of Intent: Nothing contained herein shall prohibit the ~~R.I. Marine Fisheries Council~~ **Department** from authorizing experimental net fisheries. The ~~R.I. Marine Fisheries Council~~ **Department** reserves the right to evaluate, approve, and/or reject netting proposals on an experimental basis for areas normally closed to netting.

11.7 Fyke Net Regulations: It shall be illegal to use a fyke net for the purpose of taking any fish if said fyke net leader exceeds one hundred (100) feet in length, has a stretched mesh greater than two and one half (2 1/2) inches, a leader which extends more than four (4) feet off the bottom, is not tended every forty-eight (48) hours, and which is within two hundred and fifty (250) feet of any other fishing net. Anyone setting a fyke net must register said gear with the Department ~~of Environmental Management.~~ ~~(RIMFC REGULATION) (Penalty - Part 3.3; (RIGL 20-3-3).~~

11.8 Use of Explosives: The use of explosives as a fishing device in the internal and territorial waters of the State of Rhode Island shall be prohibited. ~~(RIMFC REGULATION) (Penalty - Part 3.3; (RIGL 20-3-3).~~

11.9 Migratory Fish Regulations - Statewide: It shall be illegal to obstruct the free passage of anadromous or catadromous fish in any of the coastal rivers, streams, and/or estuaries of the State of Rhode Island. This shall include, but not be limited to, the following areas: Quicksand Pond, Tunipus Pond, Briggs Marsh, Round Pond, Warren River, Barrington River, Brickyard Pond, Seekonk River, Narrow River, Point Judith Pond, Potter Pond, Card Pond, Trustom Pond, Green Hill Pond, Charlestown Pond, Quonochontaug Pond, ~~Brightman~~ **Winnapaug** Pond, Pawcatuck River, Mastuxet Brook, King Tom Pond, Factory Pond, Mill Pond, Smelt Brook, Saugatucket River, Gilbert Stuart Brook, Wesquage Pond, Annquatucket River, Cocumscussoc Brook, Potowomut River, Maskerchugg River, Gorton Pond, Tuscatucket Brook, Spring Green



Pond, Pawtuxet River Woonasquatucket River, Moshassuck River, Seekonk River, Ten Mile River, Annawomscutt Brook, Mussachuck Creek, Runnie River, Kickemuit River, Sin and Flesh Brook, Nonquit Pond, Patchet Brook, Dunderry Brook, Cold Brook, Goose Neck Cove, Lily Pond, Almy Pond, Easton Pond Brook and Palmer River. It is illegal to take and/or possess Atlantic salmon (~~RIMFC REGULATION~~) (~~Penalty Part 3.3; (RIGL 20-3-3)~~).

11.10 Monthly Report of Commercial Fisheries: ~~The owner and/or operator of every boat, and/or the operator of any device licensed pursuant to this title for the taking or landing of marine organisms for commercial purposes in the state of Rhode Island, or any person issued a license by the director for such purposes, and any dealer of marine organisms licensed pursuant to this title shall, upon request of the department, make either a telephone report, or a written report or both. Written reports shall be made on forms furnished by the Department of environmental management and shall include catch and effort data and any other fishery data which may be required by the director. The reports shall not be made public and shall be kept only for statistical purposes. Failure to comply with the reporting requirements set out in this section or knowingly or willfully making a false report is prohibited. The license or permit of any person found in violation of this section or regulation duly promulgated thereto may be suspended for a period not to exceed sixty (60) days for each offense. No application for a license renewal shall be accepted from a person whose license or permit is currently under suspension or whose reports have not been submitted. Catch reports must be submitted at a time and in a format specified by the director, provided, however, that any such reporting requirements shall not be unreasonable and shall not create an undue burden (RIGL 20-4-5). [Penalty Part 11.11] Reference DEM's "Commercial and Recreational Saltwater Fishing Licensing Regulations".~~

11.11 Failure to File Monthly Reports: ~~(20-4-6 Repealed, 7/8/1999 see 20-4-5 above).~~  
**Repealed.**

11.12 Marking of Traps: The owner of every trap, pot, or other stationary contrivance used for the taking of marine fish, shellfish, crustaceans, or other invertebrates being fished in the waters of this state, and the owner of any trap or pot for catching or cars, or other contrivance for keeping lobsters, shall mark each such trap, pot, or contrivance, together with the buoy which is attached thereto, with the name or names of the owners thereof or the person or persons using the same, and the license number or numbers of such person or persons. Every person failing to mark each trap as provided in this Section shall be fined not less than twenty dollars (\$20) nor more than five hundred dollars (\$500) for each such offense and all traps, pots, or other contrivances used contrary to the provisions of this and other Sections of this Chapter shall be seized by any officer engaged in the enforcement of this Chapter; and the property shall be forfeited to the state (RIGL 20-4-7).

11.12.1 Trap (pot) Limits: Each person utilizing traps or pots in the fishery for scup shall be permitted to fish up to fifty pots, and each vessel engaged in this fishery will be permitted to set up to fifty traps regardless of the number of

licenses on board.

11.12.2 Trap Construction - Escape Vents: All scup traps (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.

All black sea bass traps (pots) must be constructed with two escape openings in the parlor portion of the trap. Openings may be circular, rectangular, or square, and must be a minimum of 2.5" in diameter if circular, 1- 3/8" X 5-3/4" if rectangular, 2"X 2" if square. Escape vents must be attached with biodegradable fasteners which allow vents or panels to fall away from the trap after loss.

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 3/16" (4.8mm) or smaller;
- (b) magnesium alloy, timed float releases (pop-up devices) or similar magnesium alloy fasteners;
- (c) un-galvanized or uncoated iron wire of .094" (2.4mm) or smaller.

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.

11.12.3 Buoy Lines: The use of floating line within eight (8) feet of the surface of the water is prohibited on all scup pots, traps, or similar contrivances. ~~(RIMFC REGULATION) (Penalty - Part 3.3; (RIGL 20-3-3).~~

11.13 Unauthorized Raising of Traps, Pots, and Devices: No person except the Director, ~~Enforcement Officers, and authorized technical personnel of the Department,~~ shall unduly disturb, lift, raise, molest, or remove any animal from a trap, pot, or other such device of a person licensed under this Title, without the written permission of that person (RIGL 20-4-8; ~~Penalty - Part 1.16; (RIGL 20-1-16).~~, ~~unless the violation applies to night lobstering, then cite [Part 15.16; (RIGL 20-7-13)]~~

11.14 ~~Upper Bay Dragging Regulations~~ Narragansett Bay Trawling Area: The area is encompassed by the following lines: the southern boundary of the Upper Narragansett Bay otter trawling area is defined as a line from Spink Neck in the Town of North Kingstown to Pine Hill Point on Prudence Island, thence from Homestead Dock on the easterly shore of Prudence Island, thence northeasterly to Hog Island Shoal Light, and thence to the north abutment of the Mt. Hope Bridge in the Town of Bristol; the western boundary of the area is a line from Sandy Point in the City of Warwick to the southern tip of Warwick Point in the City of Warwick; the northern boundary of the area is a line from the dock at Rocky Point in Warwick to the southern tip of Poppasquash Point in Bristol, thence to

**Hog Island Light, and thence to the northern abutment of the Mt. Hope Bridge in Bristol.**

**11.14.1 - Upper Bay Dragging Regulations:** ~~Pursuant to RIGL 20-4-3 (see reg. 41.3),~~ The use of beam trawls, otter trawls, pair trawls, or any other mechanical trawling device ~~will also be~~ **is** allowed in the Upper Narragansett Bay Trawling Area, ~~as described in Part 3.6 (20), but only~~ between July 1st and November 1st **of each year, and but** not on weekends and legal State holidays during said period. ~~(RIMFC REGULATION) (Penalty - Part 1.16; (RIGL 20-1-16).~~

**11.15 Licenses - Expiration:** Unless otherwise in this Title specified, all licenses issued hereunder shall be annual and shall expire on ~~June 30~~ **December 31** of every year. (RIGL 20-2-14)

**11.16 Commercial Gill Net Fishery - License or Permit Required:** It shall be unlawful for any person to set, haul, and/or maintain a commercial gill net in the public waters of the State without first obtaining a license or permit as provided in § 20-2-26.1. Any person violating the provisions of this Section shall, upon conviction, be punished by a fine not exceeding five hundred dollars (\$500) or imprisonment of not more than one (1) year or by both. (RIGL 20-4-13)

**11.17 Atlantic Herring Processing:** No person may process Atlantic herring for purposes other than human consumption. Direct mealing of Atlantic herring is prohibited until further notice. ~~(RIMFC REGULATION) (Penalty - Part 3.3; (RIGL 20-3-3).~~

**11.18 Narragansett Bay, Mt. Hope Bay, Sakonnet River, Charlestown and Quonochontaug Ponds Winter Mesh Size Regulations:** This area is defined as all Rhode Island State waters which are north of the following lines: north of a line running from easternmost extension of Carrier Pier to Conanicut Pt. to the tips of the T Pier on Prudence Island to Carr's Point; and north of a line from Sachuest Pt. to Sakonnet Point; and all waters north of Quonochontaug and Charlestown Breachways. Except as provided for in Section 7.08-2 and 11.19, in that portion of the area described above which is open to trawling, it is illegal to utilize an otter trawl during the period November 1 to February 28, (inclusive) which has any mesh which measures less than 6" stretched mesh (measured inside knot to inside knot). ~~(RIMFC REGULATION) (Penalty - Part 3.3; (RIGL 20-3-3).~~

~~11.19: Repealed (4/8/2010)~~

~~11.19.2: Repealed~~

~~11.19.3: Repealed~~

~~11.19.4: Repealed (4/8/2010)~~

~~11.19.5: Repealed~~

~~11.19.6: Repealed (4/8/2010)~~

~~11.19.7: Repealed~~

~~11.19.8: Repealed~~

~~11.19.9: Repealed~~

11.2019 Regulations for Internal Waters Processing Applications for Atlantic herring and/or Atlantic mackerel: No application for Internal Waters Processing (IWP) of Atlantic herring and/or Atlantic mackerel shall be accepted after March 1, annually, unless accompanied by a legally binding contract for an IWP operation in Rhode Island waters involving Rhode Island fishing vessels. The Director may grant an allotment from Rhode Island's existing unallocated or un-contracted quota for a legally bound IWP application submitted after the March 1 deadline. ~~(RIMFC REGULATION) (Penalty- Part 3.3; (RIGL 20-3-3).~~

**\*PUBLIC HEARING ITEM # 18\***

**Addition of provision establishing locations and fishing prohibition for Artificial Reefs in the Narragansett Marine Life Management Area**

**11.20 Commercial Fishing Prohibition in the Designated Experimental Artificial Reef Locations in the Narragansett Bay Marine Life Management Area – It shall be unlawful to engage in any commercial fishing (as defined in 20-1-3) in areas designated as experimental reef locations in the Narragansett Bay Marine Life Management Area, as described in RIGL § 20-3-4. To designate the exact artificial reef locations, the designated areas will be marked at their four corners with buoys and are more specifically delineated as:**

Site	Corner	Longitude (x)	Latitude (y)
Site 1	NE	-71.293920	41.573737
	NW	-71.294454	41.573669
	SE	-71.293829	41.573335
	SW	-71.294363	41.573267
Site 2	NE	-71.275013	41.611252
	NW	-71.275529	41.611137
	SE	-71.274860	41.610864
	SW	-71.275376	41.610750
Site 3	NE	-71.232079	41.646510
	NW	-71.232473	41.646794
	SE	-71.232460	41.646213

	SW	-71.232854	41.646498
Alternative Site 1	NE	-71.289538	41.575775
	NW	-71.290023	41.575961
	SE	-71.289784	41.575413
	SW	-71.290269	41.575598
Alternative Site 2	NE	-71.275875	41.615166
	NW	-71.276391	41.615051
	SE	-71.275722	41.614778
	SW	-71.276238	41.614663
Alternative Site 3	NE	-71.226263	41.652630
	NW	-71.226771	41.652782
	SE	-71.226466	41.652247
	SW	-71.226974	41.652399

**11.21 VIOLATIONS FOR NON-COMPLIANCE:** If the DFW and/or the Chief of the Division of Law Enforcement determine that there has been non-compliance with the provisions of these regulations or the permit agreement, the owner and/or operator of the permitted vessel shall be advised of such determination and the specific grounds therefore in writing by delivery of same by certified mail or by personal service upon the owner or operator in compliance with the requirements set out in Rule 4 of the Rhode Island Superior Court Rules of Civil Procedure. The determination shall specifically include notice that an opportunity for an impartial hearing is available before the Administrative Adjudication Division pursuant to R.I. Gen. Laws Chapter 42-17.7 relative to either or both the finding that sufficient evidence exists of non-compliance with the provisions of these regulations or the permit agreement as well as the termination of the permit and or the imposition of a penalty pursuant to RIGL 20-1-16.

## **11.22 PENALTIES**

**11.22.1** Judicially imposed penalty for violations: Any person who operates an otter, beam, or pair trawl, or other mechanical trawling device without a license as provided in 20-4-3 shall, upon conviction, be fined five hundred dollars (\$500) for each offense or may be imprisoned not exceeding thirty (30) days, or both. In addition to any fines imposed for failure to secure a license, the person shall be subject to the same penalties as set forth in §20-1-16 should the person set a beam, pair, or otter trawl, or other mechanical trawling device in areas prohibited by §20-4-2 or rules adopted under this section. (RIGL 20-4-4)

**11.22.2** Additionally, a person may be subject to the imposition of a administrative penalty pursuant to DEM's "Rules and Regulations Governing the Suspension/Revocation of Commercial Marine Fisheries,

*Shellfish Buyer, Lobster Dealer, Finfish Dealer, and Multi-purpose Dealer, licenses issued pursuant to Title 20 of RIGL “Fish and Wildlife”.*

**11.23 APPEALS**

**11.23.1 Denial of a license or permit: Persons denied a license or permit may request an appeal as provided by RIGL Chapter 42-17.7 and pursuant to DEM’s “Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters”.**

**11.23.2 Enforcement Action: Any person affected by a decision of the Director for an enforcement action pursuant to these regulations may file and appeal in accordance with RIGL Chapter 42-17.7 and DEM’s Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters.**

Rule **87**. EFFECTIVE DATE

The foregoing rules and regulations “Rhode Island Marine **Fisheries Statutes and Regulations, Part XI, Commercial Fisheries**” after due notice, are hereby adopted and filed with the Secretary of State this **10<sup>th</sup> day of January, 2014** to become effective 20 days from filing, unless otherwise indicated below, in accordance with the provisions of Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

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Janet L. Coit, Director  
Department of Environmental Management

Notice Given: ~~10/18/2013~~ **02/21/2014**  
Public Hearing: ~~11/19/2013~~ **03/25/2014**  
Filing date: ~~12/19/2013~~  
Effective date: ~~01/08/2013~~

**ERLID # XXXX**



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

BUREAU OF NATURAL RESOURCES  
FISH AND WILDLIFE  
&  
LAW ENFORCEMENT

RHODE ISLAND MARINE FISHERIES  
~~STATUTES AND~~ REGULATIONS

**Part XII**  
**Striped Bass**



~~March 22, 2013~~

**ANNOTATED REGULATIONS**  
**MARCH 25, 2014 PUBLIC HEARING**

**AUTHORITY:** These regulations are adopted pursuant to Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

**\*PUBLIC HEARING ITEM # 12\***

**General editing; to remove duplicative language; to correct statutory citations; and to add general provisions regarding possession limit changes, penalties and appeals;**

~~STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
— DEPARTMENT OF ENVIRONMENTAL MANAGEMENT~~

~~BUREAU OF NATURAL RESOURCES~~

~~FISH AND WILDLIFE  
&  
LAW ENFORCEMENT~~

**~~RHODE ISLAND MARINE FISHERIES  
STATUTES AND REGULATIONS~~**

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~~STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT~~

~~BUREAU OF NATURAL RESOURCES~~

~~FISH AND WILDLIFE &  
LAW ENFORCEMENT~~

~~**RHODE ISLAND MARINE FISHERIES  
STATUTES AND REGULATIONS**~~

**PURPOSE**

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

**AUTHORITY**

These regulations are adopted pursuant to Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

~~**ADMINISTRATIVE FINDINGS**~~

~~Rules and regulations are based upon the need to modify existing regulations in accordance with Chapter 42-35 Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.~~

**APPLICATION**

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

**DEFINITIONS**

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

**SEVERABILITY**

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

**SUPERSEDED RULES AND REGULATIONS**

On the effective date of these rules and regulations, all previous rules and regulations, and any policies regarding the administration and enforcement of Part XII 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.

R.I. Marine Fisheries ~~Statutes and~~ Regulations  
PART XII - STRIPED BASS

**\*PUBLIC HEARING ITEM # 9\***  
**Recreational Striped Bass**

**Option 1 - Status Quo:**

**12.1 Striped Bass Size/Possession Limits/Season in the Recreational Striped Bass Fisheries:**

**12.1.1** - ~~Except as provided in Parts 12.3 and 12.5,~~ **Minimum size:** ~~No person shall possess in Rhode Island any Striped bass which measures less than~~ Twenty-eight inches (28") in total length, whether caught within the jurisdiction of this State, or otherwise.

**12.1.2 - Season:** There is no closed season for **recreational** striped bass.

**12.1.3** - ~~Except as provided in Parts 12.3 and 12.5~~ **Possession limit:** ~~No person shall possess, per calendar day, more than~~ Two (2) Striped bass, whether caught within the jurisdiction of Rhode Island or otherwise.

**(a) Possession limit compliance aboard vessels:**

**(i) Licensed party/charter vessels: Possession limit compliance aboard licensed party/charter vessels will be determined by dividing the number of fish by the number of fishermen onboard the boat.**

**(ii) Multiple licensed recreational fishermen fishing from a single vessel: Possession limit compliance aboard vessels with multiple licensed fishermen will be determined by dividing the number of fish by the number of licensed fishermen on board said vessel.**

~~Compliance with the possession limit aboard vessels will be determined by dividing the number of fish onboard a vessel by the number of recreational fishermen onboard said vessel. (RIMF REGULATION) (Penalty Part 12.2); (RIGL 20-4-11)~~

**12.2: Striped Bass Violations - Penalties** ~~-- Any person, firm, or corporation shall be fined not more than fifty dollars (\$50) for each striped bass taken, possessed, sold, possessed for sale, or offered for sale in violation of the provisions of RIGL Chapter 20-4. In addition to the fine, the fish trap license of the person, firm, or corporation violating the second provision of § 20-4-12 of this Chapter shall be suspended for a period of one (1) year. (RIGL 20-4-11)~~ **Possession limit changes: Any modifications made to the possession limit as set forth in these regulations will be promulgated in the RI Marine Fisheries regulations (RIMFR) Part III.**

**12.3 Striped Bass Size/Possession Limits in the Commercial Striped Bass Fisheries – General Category:**

**12.3.1 Minimum size:** ~~Except as provided in Part 12.5, any person meeting the requirements of RIGL §§ 20-2-26, or 20-2-27, or 20-2-28.1, shall be allowed to take or possess, Striped bass which measure~~ Thirty four (34) inches or greater in total length, whether caught within the jurisdiction of this state or otherwise. ~~Except as provided for in section 12.5 or 12.6, no person shall in any manner take and/or possess in Rhode Island more than the allowable limit established by the Rhode Island Department of Environmental Management. When the Division of Fish and Wildlife has determined that the annual quota established by the Atlantic States Marine Fisheries Commission (ASMFC) has been filled, the commercial sale of striped bass will terminate and the season will be closed. A notice of the closure will be submitted to the Secretary of State to be effective upon filing.~~

**\*PUBLIC HEARING ITEM # 10\***  
**Commercial Striped Bass**

**Option 1 - Change season**

**12.4 - Season: During a single calendar year, the general category Striped bass fishery shall be allowed to harvest not more than sixty-one percent (61%) of the annual Rhode Island commercial quota.**

January 1—June 5	The commercial fishery will be CLOSED from January 1 through June 5, annually.
June 6—August 31	<p>Seventy percent (70%) of the entire commercial quota will be available from June 6—August 31. The possession limit will be five (5) fish per person per calendar day, or if fishing from a vessel five (5) fish per vessel per calendar day.</p> <p>The fishery will be closed in each calendar week from 12:00 AM Friday until 11:59 PM Saturday during this sub-period.</p> <p>There will be no commercial possession or sale of striped bass on these days for non-floating trap net commercial fishermen.</p> <p>The fishery will close once seventy percent (70%) of the entire commercial quota is projected to be harvested if prior to August 31.</p>

<p>September 8 – December 31</p>	<p><del>Thirty percent (30%) of the entire commercial quota will be available from September 8 through December 31.</del></p> <p><del>The possession limit will be five (5) fish per person per calendar day, or if fishing from a vessel five (5) fish per vessel per calendar day.</del></p> <p><del>The fishery will be closed in each calendar week from 12:00 AM Friday until 11:59 PM Saturday during this sub-period.</del></p> <p><del>There will be no commercial possession or sale of striped bass on these days for non-floating trap net commercial fishermen. The fishery will close when the entire commercial quota is projected to be harvested.</del></p>
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~~12.4.1 - January 1 – June 57: The commercial fishery will be CLOSED from January 1 through June 5, annually.~~

~~12.4.2 - June 68 – August 31: Seventy percent (70%) of the entire commercial general category quota will be available from June 6 – August 31 in this sub-period.~~

~~(a) Possession limit: The possession limit will be During this sub-period, five (5) fish per person per calendar day, or if fishing from a vessel, five (5) fish per vessel per calendar day.~~

~~(b) The fishery will be closed in each calendar week from 12:00 AM Friday until 11:59 PM Saturday during this sub-period. There will be no commercial possession or sale of Striped bass on these days for non-floating trap net general category commercial fishermen.~~

~~(c) The fishery sub-period will close once seventy percent (70%) of the entire commercial general category quota is projected to be harvested if prior to August 31.~~

~~12.4.3 - September 8 – December 31: Thirty percent (30%) of the entire commercial general category quota will be available from September 8 through December 31 in this sub-period.~~

~~(a) Possession limit: The possession limit will be During this sub-period, five (5) fish per person per calendar day, or if fishing from a vessel, five (5) fish per vessel per calendar day.~~

**(b)** The fishery will be closed in each calendar week from 12:00 AM Friday until 11:59 PM Saturday during this sub period. There will be no commercial possession or sale of Striped bass on these days for ~~non-floating trap net~~ **general category** commercial fishermen.

**(c)** The ~~fishery~~ **sub-period** will close when **30% of** the ~~entire commercial~~ **general category** quota is projected to be harvested.

**(d)** In addition, if ~~Fish and Wildlife~~ **(DFW)** determines that the quota will be exceeded or will not be met before the end of the fall season, ~~Fish and Wildlife~~ **(DFW)** may adjust that catch rate accordingly on or after September 15 annually.

**\*PUBLIC HEARING ITEM # 11\***  
**Commercial Striped Bass floating fish trap**

**Option 1 - Roll-over provision and change season:**

**If the Division estimates that the Floating Fish Trap sector will not fully utilize its striped bass allocation prior to the end of the season, beginning on October 15, the Division has the authority to move the designated Floating Fish Trap sector allocation in to the general category fishery as set forth in this part. The Division will consult with the Floating Fish Trap Licensees or their designee prior to enacting any allocation roll over, and will maintain written correspondence in the form of a letter on file as proof of said consultation.**

**12.5 Special Striped Bass Quota – Floating Fish Trap Net:**

**12.5.1: Floating fish trap operators must be permitted pursuant to RIGL §20-5-1, and abide by all conditions as specified in RIGL Chapter 20-5 and RIMFR Part XIV. Application shall be made to the DFW on forms prescribed by the Director.**

**12.5.2:** During a single calendar year, ~~Rhode Island~~ **the** floating **fish** trap ~~net~~ ~~companies licensed and operating under~~ **Chapter 20-2-26** shall be allowed to harvest and market **quota shall** not **be** more than thirty-nine percent (39%) of the annual Rhode Island commercial quota ~~established in Part 12.3.~~

**12.5.3 - Minimum size:** ~~These striped bass must be at least~~ Twenty-six inches (26") in total length.

**12.5.4 - Season: The Special Striped Bass Quota season will be open from April 1 through December 31.**

**12.5.5:** When ~~Fish and Wildlife~~ **(DFW)** has determined that the annual quota allocated to floating fish traps has been reached, the ~~trap net harvest of striped bass~~

~~fishery will terminate. A notice terminating the fishery will be filed with the Secretary of State to be effective upon filing.~~

**12.5.6: Reporting:** All **floating fish** trap ~~net companies~~ **operators** shall keep daily records of striped bass landings. ~~Weekly summaries of daily landings shall be submitted to Fish and Wildlife. Floating Fish Trap operators will be required to~~ **and** report landings ~~of striped bass~~ to SAFIS every Monday, Wednesday, and Friday, of every week that the trap is in operation.

**12.5.7:** If the floating fish trap operators are found to be out of compliance with the reporting regulations as ~~set forth above~~ **specified in section 12.5.5**, the operators will be notified, and ~~a notice will be filed with the Secretary of State's Office. (RIMF REGULATIONS) (Penalty - Part 3.3; RIGL 20-1-16).~~ If there is non-compliance with ~~the reporting requirements as set forth above~~, the Floating Fish Trap operators will default to **following** the program ~~as set forth below~~: ~~The following seasons are established for the commercial trap net fishery:~~

~~The following seasons are established for the commercial trap net fishery:~~

<del>January 1—December 31</del>	<del>One hundred percent (100%) of the floating trap quota shall be available from January 1 through December 31. Once eighty percent (80%) of the seasonal allocation is projected to be harvested the possession limit shall be 500 pounds per fish trap licensee per calendar day.</del>
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(a) ~~January 1~~ **April 1** – December 31: One hundred percent (100%) of the floating **fish** trap quota shall be available ~~from January 1 through December 31~~ **during this sub-period**. Once eighty percent (80%) of the seasonal allocation is projected to be harvested the possession limit shall be 500 pounds per **floating** fish trap licensee per calendar day.

**12.6 Gill Net Prohibition for Striped Bass:** No person shall take or possess any striped bass while gill netting, or while hauling a gill net ~~(RIMFC REGS) (Penalty—Part 3.3; RIGL 20-1-16)~~

**12.7 Striped Bass 50-yard Closure Zone for Gill Nets:** It shall be illegal to set, haul, or maintain a gill net within 50 yards of the Rhode Island coastline (mean high tide line) in the following areas and during the following seasons:

**12.7.1 Areas:** From Monahan's Dock breakwater (State Pier #5) to the southernmost tip of Matunuck Pt. (Carpenter's Bar); in Narragansett Bay, Mt. Hope Bay, and Sakonnet River (as described in Part 13.4-1), and from the southern tip of Sachuest Point to the juncture of Second Beach and Sachuest Point, and from the southwest corner on Price's Neck to Castle Hill Light House.

12.7.2 Season Closure: All gill netting is prohibited within 50 yards of the Rhode Island coastline (mean high water line) during the period October 15 - December 31 annually. ~~(RIMFC REGULATIONS) (Penalty – Part 3.3; RIGL 20-1-16)~~

## 12.8 Hybrid Striped Bass Cultured Striped Bass:

12.8.1: 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.

12.8.2: Packages and containers 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

12.8.3: Each fish or fish product shall have affixed to it a tag bearing the same information listed in ~~(2)~~ **section 12.8.2.**

12.8.4: The sale of this product shall be accompanied by a receipt showing the : (a) 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.

12.8.5: Fish shipped in the round and filleted by the seller, shall have the tag removed and wrapped in with the fillets when sold.

12.8.6: The consignee of each subsequent sale shall retain a copy of the bill of lading or similar accountable document for 1 year, and make it available to the Department upon request. ~~(RIMFC REGULATIONS) (Penalty – Part 3.3; RIGL 20-1-16)~~

~~**12.412.9 Commercial Striped Bass Tags:** Each individual ~~fish~~ **Striped bass** shall be immediately marked with tags supplied by ~~Fish and Wildlife (DFW).~~ No Striped bass may be sold unless it has been properly identified with ~~a special~~ **such** tag ~~provided by Fish and Wildlife.~~ ~~Fish and Wildlife (DFW)~~ may designate tagging agents as appropriate. All designated tagging agents shall keep and maintain the required forms and logs specified by ~~Fish and Wildlife (DFW).~~ ~~(RIMFC REGULATIONS) (Penalty – Part 3.3; RIGL 20-1-16)~~~~

**12.10 VIOLATIONS FOR NON-COMPLIANCE: If the DFW and/or the Chief of the Division of Law Enforcement determine that there has been non-compliance with the provisions of these regulations or the permit agreement, the owner and/or operator of the permitted vessel shall be advised of such determination and the specific grounds therefore in writing by delivery of same by certified mail or by personal service upon the owner or operator in compliance with the requirements**



set out in Rule 4 of the Rhode Island Superior Court Rules of Civil Procedure. The determination shall specifically include notice that an opportunity for an impartial hearing is available before the Administrative Adjudication Division pursuant to R.I. Gen. Laws Chapter 42-17.7 relative to either or both the finding that sufficient evidence exists of non-compliance with the provisions of these regulations or the permit agreement as well as the termination of the permit and or the imposition of a penalty pursuant to RIGL 20-1-16.

## 12.11 PENALTIES

12.11.1 Judicially imposed penalty for violations: Unless otherwise specifically provided, the violation of any law or rule or regulation relating to wild animals, wild birds, lobsters and fish, marine, freshwater and anadromous fisheries and shellfisheries shall be a misdemeanor, punishable by a fine of not more than five hundred dollars (\$500) or imprisonment for up to ninety (90) days, or both (RIGL §20-1-16)

12.11.2 Additionally, a person may be subject to the imposition of a administrative penalty pursuant to DEM's "Rules and Regulations Governing the Suspension/Revocation of Commercial Marine Fisheries, Shellfish Buyer, Lobster Dealer, Finfish Dealer, and Multi-purpose Dealer, licenses issued pursuant to Title 20 of RIGL "Fish and Wildlife".

## 12.12 APPEALS

12.12.1 Denial of a license or permit: Persons denied a license or permit may request an appeal as provided by RIGL Chapter 42-17.7 and pursuant to DEM's "Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters"

12.12.2 Enforcement Action: Any person affected by a decision of the Director for an enforcement action pursuant to these regulations may file and appeal in accordance with RIGL Chapter 42-17.7 and DEM's Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters.

## Rule ~~87~~. EFFECTIVE DATE

The foregoing rules and regulations "Rhode Island Marine ~~Fisheries Statutes and~~ Regulations, Part XII, Striped Bass", after due notice, are hereby adopted and filed with the Secretary of State this ~~22<sup>nd</sup> day of March, 2013~~ (insert new date) to become effective 20 days from filing, unless otherwise indicated, in accordance with the provisions of Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in



accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

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Janet L. Coit  
Director, Department of Environmental Management

Notice Given: ~~01/18/2013~~ 02/21/2014

Public Hearing: ~~02/19/2013~~ 03/25/2014

Filing date: ~~03/22/2013~~

Effective date: ~~04/11/2013~~

ERLID#: ~~7210~~



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

BUREAU OF NATURAL RESOURCES  
FISH AND WILDLIFE  
&  
LAW ENFORCEMENT

RHODE ISLAND MARINE FISHERIES  
~~STATUTES AND~~ REGULATIONS

**Part XVI**  
**Menhaden ~~Regulations~~**



~~November 8, 2013~~

**ANNOTATED REGULATIONS**  
**MARCH 25, 2014 PUBLIC HEARING**

**AUTHORITY:** These regulations are adopted pursuant to Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

**\*PUBLIC HEARING ITEM # 21\***

**General editing: to remove duplicative language; to correct statutory citations;  
and to add general provision for penalties and appeals.**

~~STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT~~

~~BUREAU OF NATURAL RESOURCES~~

~~FISH AND WILDLIFE  
&  
LAW ENFORCEMENT~~

**~~RHODE ISLAND MARINE FISHERIES  
STATUTES AND REGULATIONS~~**

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~~STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT~~

~~BUREAU OF NATURAL RESOURCES~~

~~FISH AND WILDLIFE  
&  
LAW ENFORCEMENT~~

~~**RHODE ISLAND MARINE FISHERIES  
STATUTES AND REGULATIONS**~~

**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.

**AUTHORITY**

These regulations are adopted pursuant to Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

~~**ADMINISTRATIVE FINDINGS**~~

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

**APPLICATION**

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

**DEFINITIONS**

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

**SEVERABILITY**

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

**SUPERSEDED RULES AND REGULATIONS**

On the effective date of these rules and regulations, all previous rules and regulations, and any policies regarding the administration and enforcement of Part XVI shall be superseded.

**R.I. Marine Fisheries ~~Statutes and~~ Regulations**  
**PART XVI - MENHADEN REGULATIONS**

16.1 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. ~~(RIMF REGULATIONS) (Penalty - Part 3.3; (RIGL 20-3-3)~~

16.2 Narragansett Bay ~~Menhaden Marine Life~~ Management Area: ~~Narragansett Bay, in its entirety, is designated a Menhaden Management Area.~~ The 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 Narragansett Bay ~~Menhaden~~ Marine Life Management Area (Management Area).

16.2.1 Gear Restrictions: The use of purse seines shall be permitted only in accordance with the following terms and conditions:

(A) All nets shall be less than 100 fathoms (600 feet) in length and less than 15 fathoms (90 feet) in depth.

(B) All nets shall be marked with fluorescent-colored float buoys, distinguishable from the other float buoys on the net, at intervals of 50 feet.

(C) 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.

16.2.2 Vessel Restrictions: When engaged in the commercial Menhaden fishery, vessels may not have a useable fish storage capacity greater than 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. A document reflecting the assessment must be kept aboard the vessel at all times. Any vessel with a fish storage capacity greater than 120,000 pounds may only engage in the fishery if the excess capacity is rendered unusable in accordance with the specifications set forth in the assessment.

16.2.3 - Possession Limits:

(A) When the commercial Menhaden fishery opens, per section 16.2.5 of this part, the possession limit shall be 120,000 pounds per vessel per calendar day, ~~per section 16.2.5~~. The possession limits may be modified by the ~~DEM~~ Division of Fish & Wildlife (DFW) on the basis of the estimated weekly standing stock of Menhaden in the Management Area derived, in accordance with section 16.2.5, via approved scientific monitoring methods.

(B) No commercial Menhaden fisher shall possess Menhaden or otherwise engage in the taking of Menhaden anytime on Saturday, Sunday, on any official state holiday, or prior to sunrise or following sunset.

16.2.4 Reporting Requirements: In order to permit the ~~DEM~~ **DFW** to monitor the fishery, any fisher intending to engage in the commercial Menhaden fishery shall notify the ~~DEM Division of Law Enforcement (DLE)~~ at (401) 222-3070 prior to taking or coming into possession of Menhaden in the Management Area. 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. Each commercial Menhaden fisher shall also contact the DFW at (401) 423-1940 at the end of each trip to report the amount of menhaden in possession by the fisher in pounds and area fished.

16.2.5 Opening/Closure of Fishery Based on Biomass Estimates:

(A) Biomass "Floor": On an annual basis beginning every spring, the DFW, utilizing approved scientific monitoring methods, shall conduct regular estimates of the weekly standing stock of Menhaden present in the Management Area. On the basis of those estimates, the DFW shall issue a notice when the estimated weekly standing stock reaches a threshold of 1,500,000 pounds, and the DFW shall open the commercial fishery, at an initial possession limit of 120,000 pounds per vessel per calendar day, when the estimated weekly standing stock reaches 2,000,000 pounds. If, at any time, the stock estimate drops below 1,500,000 pounds, the DFW shall close the commercial fishery until further notice.

(B) Biomass "Ceiling": When 50% of the estimated weekly standing stock of menhaden stock present in the management area, above the minimum threshold amount of 1,500,000 pounds, is harvested, the DFW shall close the menhaden fishery until further notice.

**\*PUBLIC HEARING ITEM # 20\***

**Option 1:**

**(C) A possession limit of 6,000 lbs per vessel per day will be allowed once the marine life management area closes.**

16.2.6 Permanent Closures: The following areas are permanently closed to purse seining for menhaden:

Providence River: All waters north of a straight line running from Rocky Point to Conimicut Light to Nayatt Point.

Greenwich Bay: All waters in Greenwich Bay west of a line from the flag pole on Warwick Point to Sandy Point.

16.2.7 [Repealed 4/2011]

16.2.8 Harvest of Menhaden in Permanently Closed Areas: No person harvesting menhaden by any fishing method shall possess more than 200 Menhaden per vessel per calendar day in any closed area of the **Menhaden** Management Area as set forth above.

16.3 Landing of Menhaden in RI Under State Quota Program: A total annual statewide quota for Menhaden ~~is hereby established. It~~ shall be the most recent allocation as established for the State by the Atlantic States Marine Fisheries Commission (ASMFC). The quota shall pertain solely to landings of Menhaden in RI ~~and The quota~~ shall not pertain to the possession of Menhaden in RI waters prior to landing. The quota may only be harvested and landed by fishermen licensed and vessels duly authorized in accordance with the provisions of Title 20 of the General Laws and in accordance with all rules and regulations promulgated by the DEM. The State's Menhaden quota will be managed as follows:

**Option 2:**

16.3.1: The landing limit for Menhaden in RI will be unlimited until the quota has been reached, as determined by the DFW. Once the quota has been reached: (i) the landing limit will be zero for vessels associated with directed fisheries for Menhaden, including but not limited to purse seine operations, and (ii) the landing limit will be 6,000 pounds per vessel per day for all vessels not associated with directed fisheries for Menhaden. **Non-directed fisheries for Menhaden include but are not limited to cast net fishing and the floating fish trap fishery.**

16.3.2: All commercial Menhaden operations conducted in the **Narragansett Bay Menhaden** Management Area, prior to and after the State's quota has been reached, are subject to the provisions of section 16.2.

16.4 – Episodic Event Set Aside Program:

(A) 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 landing limit for menhaden will be 120,000 pounds per vessel per day for vessels associated with directed fisheries for Menhaden, until the Set Aside **quota** has been

exhausted, as determined by the ASMFC and/or the DFW, 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 ~~Narragansett Bay Menhaden~~ Management Area, must adhere to all of the provisions governing the ~~Narragansett Bay Menhaden Management Area~~, as set forth in section 16.2 as specified in these regulations.

(B) Reporting Requirements: Any commercial fisher intending to target Menhaden under the Episodic Event Set Aside Program for Menhaden must notify the DLE at (401) 222-3070 prior to taking or coming into possession of 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 to the possession limit for menhaden that is applicable to operations conducted in the ~~Narragansett Bay Menhaden~~ Management Area. Each said fisher shall also contact the DFW at (401) 423-1940 at the end of each daily trip or within four hours thereof to report the amount of Menhaden landed by the fisher in pounds. These Menhaden-specific reporting requirements are in addition to all other existing commercial fishing reporting requirements as set forth in the RI Marine Fisheries ~~Statutes and~~ Regulations (RIMFR).

(C) Vessels not associated with directed fisheries for menhaden may continue to harvest and land in RI up to 6,000 pounds per vessel per day as bycatch. Such vessels are not subject to the provisions of sub-sections 16.3.2(A) and (B), but are subject to the provisions of section 16.2 with regard to operations conducted in the ~~Narragansett Bay Menhaden~~ Management Area, and are subject to all existing commercial fishing reporting requirements as set forth in the RIMFR.

### Option 3:

(D) The Episodic Event Set Aside Program will end on November 1 annually or when the set aside quota has been harvested, whichever first occurs. If the Episodic Event Set Aside Program ends prior to November 1, a notice will be filed with the Secretary of State.

16.5: No fisher may transfer or attempt to transfer Menhaden to another fisher.

16.6 VIOLATIONS FOR NON-COMPLIANCE: If the DFW and/or the Chief of the Division of Law Enforcement determine that there has been non-compliance with the provisions of these regulations or a permit agreement, the owner and/or operator of the permitted vessel shall be advised of such determination and the specific grounds therefore in writing by delivery of same by certified mail or by personal service upon the owner or operator in compliance with the requirements set out in Rule 4 of the Rhode Island Superior Court Rules of Civil Procedure. The determination shall specifically include notice that an opportunity for an impartial hearing is available before the Administrative Adjudication Division pursuant to R.I. Gen. Laws Chapter 42-17.7 relative to either or both the finding that sufficient evidence exists of non-compliance with the provisions of these regulations or the



permit agreement as well as the termination of the permit and or the imposition of a penalty pursuant to RIGL 20-1-16.

## 16.7 PENALTIES

16.7.1 Judicially imposed penalty for violations: Unless otherwise specifically provided, the violation of any law or rule or regulation relating to wild animals, wild birds, lobsters and fish, marine, freshwater and anadromous fisheries and shellfisheries shall be a misdemeanor, punishable by a fine of not more than five hundred dollars (\$500) or imprisonment for up to ninety (90) days, or both (RIGL §20-1-16)

16.7.2 Additionally, a person may be subject to the imposition of a administrative penalty pursuant to DEM's "Rules and Regulations Governing the Suspension/Revocation of Commercial Marine Fisheries, Shellfish Buyer, Lobster Dealer, Finfish Dealer, and Multi-purpose Dealer, licenses issued pursuant to Title 20 of RIGL "Fish and Wildlife".

## 16.8 APPEALS

16.8.1 Denial of a license or permit: Persons denied a license or permit may request an appeal as provided by RIGL Chapter 42-17.7 and pursuant to DEM's "Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters"

16.8.2 Enforcement Action: Any person affected by a decision of the Director for an enforcement action pursuant to these regulations may file and appeal in accordance with RIGL Chapter 42-17.7 and DEM's Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters.

## **Rule 8. EFFECTIVE DATE**

The foregoing rules and regulations "Rhode Island Marine **Fisheries Statutes and Regulations, Part XVI, Menhaden**" after due notice, are hereby adopted and filed with the Secretary of State this ~~8<sup>th</sup> day of November, 2013~~ to become effective 20 days from filing, unless otherwise indicated below, in accordance with the provisions of Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35, Administrative Procedures, of the Rhode Island General Laws of 1956, as amended.

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Janet L. Coit, Director  
Department of Environmental Management

Notice Given: ~~07/16/2013~~ 02/21/2014  
Public Hearing: ~~08/15/2013~~ 03/25/2014

Filing date: ~~11/08/2013~~  
Effective date: ~~11/28/2013~~

ERLID# ~~7386~~



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

BUREAU OF NATURAL RESOURCES  
FISH AND WILDLIFE  
&  
LAW ENFORCEMENT

## RHODE ISLAND MARINE FISHERIES REGULATIONS

### **Part III Marine Fisheries Council**

~~February 7, 2014~~

**ANNOTATED REGULATIONS**  
**MARCH 25, 2014 PUBLIC HEARING**

**AUTHORITY:** These regulations are adopted pursuant to Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

**\*PUBLIC HEATING ITEM # 17\***  
**General editing of entire regulation**

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

BUREAU OF NATURAL RESOURCES

FISH AND WILDLIFE  
&  
LAW ENFORCEMENT

**~~RHODE ISLAND MARINE FISHERIES REGULATIONS~~**

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~~STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT~~

~~BUREAU OF NATURAL RESOURCES  
FISH AND WILDLIFE & LAW ENFORCEMENT~~

**~~RHODE ISLAND MARINE FISHERIES REGULATIONS~~**

**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.

**AUTHORITY**

These rules and regulations are promulgated pursuant to Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

**~~ADMINISTRATIVE FINDINGS~~**

~~Rules and regulations are based upon the need to modify regulations in accordance with Chapter 42-35, Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.~~

**APPLICATION**

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

**DEFINITIONS**

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

**SEVERABILITY**

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

**SUPERSEDED RULES AND REGULATIONS**

On the effective date of these rules and regulations, all previous rules and regulations, and any policies regarding the administration and enforcement of Part III 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.

## PART III - MARINE FISHERIES COUNCIL

3.1 Council Created - Membership – Compensation: There is hereby created a RI Marine Fisheries Council (**Council**). The Council shall be composed of the Director of the Department of Environmental Management or the Director's designee, who shall serve as chairperson and eight (8) private citizen members. The private citizen members shall be chosen from among those with skill, knowledge, and experience in the commercial fishing industry, the sport fishing industry, and in the conservation and management of fisheries resources, and shall be appointed by the Governor with the advice and consent of the Senate. Three (3) of the private citizen members shall be representatives of the commercial fishing industry; three (3) shall be representatives of the sport fishing industry; and the remaining two (2) shall have skill, knowledge, and experience in the conservation and management of fisheries resources and/or marine biology. The chairperson of the Coastal Resources Management Council and the chiefs of the Divisions of Enforcement and Fish and Wildlife in the Department of Environmental Management shall serve in an advisory capacity to the Council. Members of the Council shall serve for a term of four (4) years and may succeed themselves. Initial appointments to the Council shall be appointed as follows: three (3) members for a term of two (2) years, three (3) members for a term of three (3) years, and two (2) members for a term of four (4) years. All members of the Council shall serve without compensation and shall be reimbursed for their necessary expenses incurred in travel and in the performance of their duties as such. (RIGL 20-3-1)

3.2 Powers and Duties: The **Marine Fisheries** Council shall serve in an advisory capacity only to the state and agencies of the state regarding marine fisheries issues and to the Director ~~of the department of environmental management~~ in the exercise of his or her authority under Title 20 of the Rhode Island General Laws for the planning, management, and regulation of marine fisheries on matters, including but not limited to the following activities:

- (1) the manner of taking fish, lobsters, and shellfish;
- (2) the legal size limits of fish, lobsters, and shellfish to be taken or possessed;
- (3) the seasons and hours during which fish, lobsters, and shellfish may be taken or possessed;
- (4) the numbers or quantities of fish, lobsters, and shellfish which may be taken or possessed; and
- (5) the opening and closing of areas within the coastal waters to the taking of any and all types of fish, lobsters, and shellfish. (RIGL 20-3-2)

3.2-13 Adjustment of allocations, seasons and possession limits: For species managed under quota, possession limit, and/or by seasons, compliance with a federal or regional fisheries management plan (FMP), **the Division of Fish and Wildlife (DFW)**, unless specifically prohibited by the Secretary of Commerce or the Atlantic States Marine Fisheries Commission, will have the authority to distribute the allocations including the distribution of allocations among the various gear types, modify possession limits, and change seasons in the following manner:

**3.2.1-1(a)** - Allocation Changes: DFW may project when the allocation for a species will be exhausted. This determination will be based on the period of time remaining in the allocation period, historical catch rates, and the current catch rate. If DFW determines that an allocation assigned for a sub-period or assigned to be available for taking by a particular gear type during that sub-period will be exhausted prior to the end of the sub-period or will not be met for a sub-period, it may change or redistribute the allocation assigned to be available for taking by a particular gear type during that sub-period. DFW will file a notice with the Secretary of State and submit a listserve notice announcing the change. All variances will be effective upon filing with the Secretary of State.

**3.2.1-2(b)** - Possession limit Changes: If DFW determines that the allocation for a given species will be exhausted prior to the end of a sub-period or will not be met for a sub-period, DFW may change the possession limit; such modifications may include the increase or the decrease in the possession limit at which a sub-period commences. DFW will file a notice with the Secretary of State and submit a listserve notice announcing the change. All variances of possession limits will be effective upon filing with the Secretary of State.

**3.2.1-3(c)** – Season Changes: Upon notification from federal authorities to alter a season for a particular species in compliance with a federal or regional FMP, DFW will file a notice with the Secretary of State and submit a listserve notice announcing the change. All changes in seasons accomplished will be effective upon filing with the Secretary of State.

**3.2.1-4(d)** – Current Possession limit: If no current possession limit is noted in the table below, refer to Part 7 of the RI Marine Fisheries ~~Statutes and Regulations~~ **RIMFR** for the sub-period starting possession limit for all species other than Striped bass, Menhaden, and Horseshoe crabs. For Striped bass, if no current possession limit is noted in the table below, refer to Part 12 of the ~~RI Marine Fisheries Statutes and Regulations~~ **RIMFR** for the sub period starting possession limit. For Horseshoe crabs, refer to Part 15 of the ~~RI Marine Fisheries Statutes and Regulations~~ **RIMFR**. For Menhaden, refer to Part 16 of the ~~RI Marine Fisheries Statutes and Regulations~~ **RIMFR**.

Species	Current possession limit	Effective dates
Atlantic Herring – Area 1A	Directed Fishery is CLOSED; 2,000 lbs/ vessel/calendar day.	Effective 12:01AM on October 18, 2013, until the next fishing season begins on January 1, 2014.
Atlantic Herring – Area 1B		

Atlantic Herring – Area 2	OPEN Unlimited	Effective 12:01AM on October 29, 2013, until further notice.
Atlantic Herring – Area 3	Directed Fishery is CLOSED; vessels issued Federal Atlantic Herring permits may NOT fish for more than 2,000 lbs/vessel/calendar day.	Effective 12:01AM on October 24, 2013, until the next fishing season begins on January 1, 2014.
Black Sea Bass	Open at 250 lbs/vessel/day	Effective 12:01AM on February 10, 2014.
Coastal Sharks – Smoothhound Sharks Species Group	OPEN UNLIMITED	Effective 12:01AM on January 1, 2014, the group will remain open until the fishing season ends on December 31, 2014, or until further notice.
Coastal Sharks - Non-Sandbar Large Coastal Sharks (LCS) Species Group	CLOSED	Effective 12:01AM on October 1, 2013, until further notice.
Coastal Sharks - Small Coastal Sharks (SCS) Species Group	OPEN UNLIMITED	Effective 12:01AM on January 1, 2014, the group will reopen and remain open until the fishing season ends on December 31, 2014, or until further notice.
Coastal Sharks - Pelagic Sharks Species Group	OPEN UNLIMITED	Effective 12:01AM on January 1, 2014, the group will remain open until the fishing season ends on December 31, 2014, or until further notice.
Coastal Sharks - Porbeagle sharks of the Pelagic Shark Species Group –	OPEN UNLIMITED	Effective 12:01 AM on January 1, 2014, the group will reopen and remain open until the fishing season ends on December 31, 2014, or until further notice.
Horseshoe Crab	CLOSED	Effective 12:01AM on May 4, 2013, the commercial bait fishery for horseshoe crabs will be closed until the next harvest period begins on January 1, 2014.
Menhaden – Possession in the Menhaden Management Area	CLOSED	Effective 12:01AM on July 3, 2013, until further notice.
Menhaden – In State Waters outside the Menhaden Management Area	Open at 120,000 lbs/vessel/calendar day.	Effective 12:01AM on August 14, 2013, until further notice.
Monkfish		
Scup – General Category	25,000 pounds per vessel per week	Effective 12:01AM on October 24, 2013, until the next sub-period begins at 12:01AM on November 1, 2013, at 8,000 lbs/vessel/calendar day.



Scup – Floating Fish Traps		
Striped Bass – General Category	OPEN FOR FIVE (5) DAYS at five (5) fish/vessel/calendar day	Effective 12:01AM on November 24, 2013, closing 12:01AM November 29, 2013, until the next sub-period begins June 5, 2014, at 5 fish/person/day.
Striped Bass – Floating Fish Traps		
Summer Flounder	Open at 700 lbs/vessel/ calendar day.	Effective 12:01AM on December 25, 2013, until the next sub-period begins at 12:01AM on January 1, 2014 at 300 lbs/vessel/calendar day.
Tautog	CLOSED	Effective 12:01AM on October 31, 2013, until the next sub-period begins on April 15, 2014, at 10 fish/vessel/calendar day.
Spiny Dogfish	4,000 lbs/vessel/ calendar day.	Effective at 12:01AM on March 28, 2013, 3,000 lbs/vessel/calendar day, and then commencing 12:01AM on May 1, 2013, will increase to 4,000 lbs/vessel/calendar day.
Weakfish		

~~(Penalty – Part 3.3; RIGL 20-1-16)~~

**3.34 Penalties:** Unless another penalty is specified in this Title, any person who violates a rule or regulation of the Department shall, upon conviction, be punished by a fine of not more than five hundred dollars (\$500) or imprisonment for not more than ninety (90) days, or both. (RIGL 20-1-16)

**3.45 Shellfish and Marine Life Management Areas:** The Council may, recommend to the Director ~~of Environmental Management~~, to designate certain portions of the shores of the public waters of the State, or land within the State covered by tidewater at either high or low tide, or portions of the free and common fisheries of the State as Shellfish or Marine Life Project Management Areas **pursuant to RIGL Section 20-3-4.** ~~for the purpose of enhancing the cultivation and growth of marine species, managing the harvest of marine species, facilitating the conduct by the Department of experiments in planting, cultivating, propagating, managing, and developing any and all kinds of marine life, and any other related purpose. The designation shall be pursuant to the Administrative Procedures Act, Chapter 35 of Title 42, and shall be by reference to fixed landmarks. The Council, upon the designation of a Management Area, shall propose any rules and regulations as it shall deem necessary for the protection and management of the Management Area and the animal life and property in the Management Area, including the exclusion or restriction of persons from the area or the prohibition of certain activities within the areas or other restrictions as it may deem necessary. Upon the designation of any Management Area, the Director of Environmental Management shall place any stakes, bounds, buoys, or markers with the~~

~~words "Rhode Island Department of Environmental Management" plainly marked on them, as will approximate the Management Area. Failure to place or maintain such stakes, bounds, buoys or markers shall not be admissible in any judicial or administrative proceeding. The Director may make any experiments or conduct such activities as in his discretion shall be appropriate in these Management Areas. (RIGL 20-3-4)~~

### 3.56 Regulations Governing the Designation of Management Areas and the Opening and Closing of Areas Within the Coastal Waters:

~~3.56.1: The Director from time to time may designate various portions of the waters of the State as **Shellfish or Marine Life** Management Areas, pursuant to **RIGL Section 20-3-4** the authority granted by Title 20, Chapter 3, of the General Laws of Rhode Island. Such designations may be made for the purpose of conducting experiments in planting, cultivating, propagating, managing, and developing any and all kinds of shellfisheries or finfisheries, for the purpose of protecting shellfisheries and finfisheries from overfishing, for the purpose of encouraging the development and growth of any and all shellfisheries or finfisheries, or for any other purpose related to the protection, maintenance, and/or propagation of fisheries resources.~~

3.56.2: Any designations under these regulations shall include an explicit description of the area to be designated and may include restrictions on the quantities, types, or sizes of shellfish or finfish which may be taken in such area, the times during which shellfish or finfish may be taken, the manner or manners in which shellfish or finfish may be taken, or may close such area to the taking of shellfish or finfish altogether.

3.56.3: A designation under these regulations may be made for a period not to exceed five (5) years. A designation may be renewed at the end of its initial term.

3.56.4 Designations under these regulations may be made pursuant to the Administrative Procedures Act, Chapter 42-35 of the General Laws of Rhode Island as amended. Such designations shall contain a brief description of the purposes for which they are being made.

3.56.5: Shellfishing and finfishing activity in a Management Area may be regulated by the Council by filing such regulation with the office of the Secretary of State. Such regulation shall take effect twenty (20) days following its filing. In case of emergency or imminent hazard found to require immediate action, the Council may issue regulations governing the taking of shellfish or finfish in a Management Area to become effective without delay. Any regulation issued under this Section shall contain an explicit description of the nature of the emergency or imminent hazard giving rise to the regulation.

3.56.6: Until and unless modified pursuant to these regulations, all ~~Shellfish Project Management Areas and other~~ Management Areas previously established by the Department ~~of Natural Resources, the Department of Environmental Management, or~~

~~the Marine Fisheries Council shall remain in effect. Those areas so designated are found in part 3.6 Description of Shellfish and Marine Life Management Areas, herein.~~

~~3.56.7:~~ The Director ~~of the Department of Environmental Management ("DEM")~~ may, where he reasonably believes that a delay would adversely affect the public purposes sought to be served by Title 20 of the General Laws of Rhode Island and/or would pose a danger to the public health, act to open or close any area (whether or not previously designated as a Marine Life Management Area) within the coastal waters of the State of Rhode Island to the taking of any and all types of fish, lobsters, and shellfish. In determining whether to open or close an area pursuant to this regulation, the Director shall consider what effect, if any, would be occasioned by deferring the decision to open or close such area until the next meeting of the ~~Marine Fisheries~~ Council. If the Director opens or closes an area without awaiting the next meeting of the ~~Marine Fisheries~~ Council, he shall:

- a. Immediately give notice, in writing, to the Council members of his/her action, and the basis thereof;
- b. Immediately give notice of his/her action, in a newspaper of general circulation in the area to be affected thereby; and
- c. Place his/her decision to open or close an area on the agenda at the next scheduled meeting of the ~~Marine Fisheries~~ Council, for its consideration.

When the Director has so acted to open or close an area, the ~~Marine Fisheries~~ Council, if in agreement with such action, shall adopt a rule confirming such act, in conformance with Title 42, Chapter 35 of the General Laws. If not ratified by the ~~Marine Fisheries~~ Council, the action by the Director shall become null and void as of the date of the ~~Marine Fisheries~~ Council's failure to ratify. (Penalty - Part 3.3 (20-1-16))

### **\*PUBLIC HEATING ITEM # 16\***

#### **Removal of Descriptions of Shellfish and Marine Life Management Areas**

##### **3.6 Description of Shellfish and Marine Life Management Areas:**

~~3.6.1 Bissel Cove and adjacent waters of Narragansett Bay – North Kingstown, R.I. including the entirety of Bissel Cove and adjacent waters 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.~~

~~3.6.2 Greenwich Bay in its entirety, in the towns of East Greenwich and Warwick, including the waters of Narragansett Bay west of a line between the flagpole at the Warwick Country Club and the end of Sandy Point on the Potowomut Shore.~~

~~3.6.3 Mill Gut in its entirety in the Town of Bristol, lying south of the northern-most bridge on Colt Drive.~~

~~3.6.4 Ninigret (Charlestown) Pond in its entirety in the Town of Charlestown.~~

~~3.6.5 Point Judith Pond, including East Pond; in their entirety in the towns of South Kingstown and Narragansett.~~

~~3.6.6 Potter Pond in its entirety, Town of South Kingstown, west of the bridge at Succotash Road.~~

~~3.6.7 Quonochontaug Pond in its entirety in the towns of Charlestown and Westerly.~~

~~3.6.8 Sakonnet River north of a line from Sachuest Point to Sakonnet Light. The northern boundary of the Management Area will be 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, and bounded on the west by a north/south line running from Flint Point to Taggert's Ferry, so-called.~~

~~3.6.9 Winnapaug (Brightman) Pond in its entirety in the Town of Westerly.~~

~~3.6.10 Bristol Harbor Shellfish Transplant Area; that area of Bristol Harbor southerly of a line between Johnson's Dock, so-called, on the west side of Bristol Harbor and the northwest corner of the Coast Guard Dock, on the east side of Bristol Harbor; and north of a line between Rockwell's Dock, so-called, on the west side of the harbor, and the northwest corner of the Coast Guard Dock. The area is bordered on the west by the three foot contour line along the shore between Rockwell's dock and Johnson's Dock, and on the east by the existing pollution line.~~

~~3.6.11 Narragansett Bay in its entirety is designated a menhaden Management Area. This area shall include 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 will then extend from Land's End to Sachuest Point and thence to Sakonnet Light.~~

~~3.6.12 Upper Narragansett Bay Trawling Area; The area is encompassed by the following lines; the southern boundary of the Upper Narragansett Bay otter trawling area is defined as a line from Spink Neck in the Town of North Kingstown to Pine Hill Point on Prudence Island, thence from Homestead Dock on the easterly shore of Prudence Island, thence northeasterly to Hog Island Shoal Light, and thence to the north abutment of the Mt. Hope Bridge in the Town of Bristol. The western boundary of the area is a line from Sandy Point in the City of Warwick to the southern tip of Warwick Point in the City of Warwick. The northern boundary of the area is a line from the dock at Rocky Point in Warwick to the southern tip of Poppasquash Point in Bristol, thence to Hog Island Light, and thence to the northern abutment of the Mt. Hope Bridge in Bristol.~~

~~3.6.13 Upper Sakonnet River Marine Life Management Area; The area is defined as~~

~~follows: That portion of the Upper Sakonnet River which lies north of a line from McCurry Pt. in Portsmouth to the southern end of Jack's Island (so-called) in Tiverton. That portion of the Sakonnet River which lies south of the Sakonnet River Bridge (Rt. 24) to the southern boundary.~~

~~3.6.14 Kickemuit River Shellfish Management Area: All marine waters of the Kickemuit River are those north of a line connecting nun buoy 6 and can buoy 1 at Bristol Narrows.~~

~~3.6.15 Potowomut Shellfish Management Area: 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 (Greene's) River seaward of the Forge Road Spillway are declared a shellfish management area for five years.~~

~~3.6.16 "High Banks" Shellfish Management Area: 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.~~

~~3.6.17 Jenny's Creek Shellfish Management Area: Jenny's Creek of Prudence Island in its entirety is designated as a shellfish management area. The management area includes waters of Jenny's Creek north of the inlet at Pine Hill Cove. (RIME REGULATION) [Penalty - Part 3.3 (RIGL 20-1-16)]~~

### 3.7 Shellfish Transplant Regulations:

3.7.1: Any person participating in the transplant program shall surrender his commercial license to the conservation officer or DFW employee afloat on the transplant bed or otherwise stationed to collect licenses. The license must be surrendered before the participant commences digging shellfish.

3.7.2: 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.

3.7.3: 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.

3.7.4: 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.

3.7.5: 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.

3.7.6: 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.

3.7.7 Violation of any of these provisions shall be punishable by a fine of up to \$500 and/or up to 30 days in jail.

3.7.8 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. [Penalty - Part 3.3 (RIGL 20-1-16) (RIGL 20-6-29)]

3.8 Emergencies: The Department of Environmental Management may, without requirement of notice of hearing close any or all of the coastal waters of the State to the taking of any or all types of fish, lobsters, and shellfish, where it determines that a biological emergency exists which imminently threatens the marine resources of the State subject to the provisions of § 42-35-3(b).

3.9 Suspension and Revocation of Licenses: The Director of Environmental Management has the authority to suspend or revoke any shellfishing, lobster, or fishing license issued pursuant to any provision of this Title, for violation of a rule or regulation adopted by the Department of Environmental Management, in any manner and for any period as the Director determines by regulation. Any person aggrieved by an order of suspension or revocation may appeal there from in accordance with the provisions of the Administrative Procedures Act, Chapter 35 of Title 42. (RIGL 20-3-6)

3.9.1: Any person who seeks an adjudicatory hearing in order to contest an enforcement action which alleges violation(s) of these rules and regulations must file said request in writing with the clerk of Administrative Adjudication Division, 235 Promenade Street, Providence, Rhode Island 02908 within twenty (20) calendar days of receipt of the contested agency enforcement action.

3.10 Regulation of Fishing in Great Salt Pond: Notwithstanding the provisions of §§ 20-10-1 through 20-10-4, the electors of the Town of New Shoreham may, in a town meeting called for that purpose, enact any ordinances to protect and to regulate the taking of shellfish and other fish in Great Salt Pond, and may impose penalties for violations of these ordinances, not exceeding a fine of two hundred dollars (\$200) and three (3) months imprisonment for any one offense. (RIGL 20-3-7)

~~3.11 Size, Possession, and Daily Limit Violations On Board Vessels: In any instance, when there is a violation of the size, possession, or daily limit on board a vessel carrying more than one person when the catch is commingled, the violation shall be deemed to have been committed by the owner of the vessel, or the operator of the vessel, if the owner is not on board. [Penalty - Part 3.3 (RIGL 20-1-16) (RIGL 20-6-29)]~~

## **Rule ~~87~~. EFFECTIVE DATE**

The foregoing rules and regulations Rhode Island Marine ~~Statutes and~~ Regulations, **Part III, Marine Fisheries Council**, after due notice, are hereby adopted and filed with the Secretary of State this ~~7<sup>th</sup> day of February, 2014~~ **(insert new date)** to become effective 20 days from filing, unless otherwise indicated below, in accordance with the provisions of Title 20, Chapters 42.17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

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Mark Gibson, Deputy Chief of Marine Fisheries  
Division of Fish and Wildlife  
Department of Environmental Management

Notice Given: ~~N/A~~ **02/21/2014**  
Public Hearing: ~~N/A~~ **03/25/2014**

Filing date: ~~02/07/2014~~  
Effective date: ~~02/07/2014~~

ERLID# ~~7657~~



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

BUREAU OF NATURAL RESOURCES  
FISH AND WILDLIFE  
&  
LAW ENFORCEMENT



**RHODE ISLAND MARINE FISHERIES  
~~STATUTES AND~~ REGULATIONS**

**Part IV  
Shellfish**

**~~November 20, 2013~~**

**ANNOTATED REGULATIONS  
MARCH 25, 2014 PUBLIC HEARING**



**\*PUBLIC HEARING ITEM # 15\***

**Re-format numbering/lettering of sections; to remove duplicative language; for general editing; to add and/or clarify descriptions of Shellfish Management Areas; to add and/or correct several statutory citations; and to add general provisions regarding penalties and appeals;**

~~STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT~~

~~BUREAU OF NATURAL RESOURCES~~

~~FISH AND WILDLIFE  
&  
LAW ENFORCEMENT~~

**~~RHODE ISLAND MARINE FISHERIES  
STATUTES AND REGULATIONS~~**

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~~STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
BUREAU OF NATURAL RESOURCES~~

~~FISH AND WILDLIFE  
&  
LAW ENFORCEMENT~~

~~**RHODE ISLAND MARINE FISHERIES  
STATUTES AND REGULATIONS**~~

**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.

**AUTHORITY**

These regulations are adopted pursuant to Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

~~**ADMINISTRATIVE FINDINGS**~~

~~Rules and regulations are based upon the need to modify existing regulations in accordance with Chapter 42-35, Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.~~

**APPLICATION**

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

**DEFINITIONS**

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

**SEVERABILITY**

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

**SUPERSEDED RULES AND REGULATIONS**

On the effective date of these rules and regulations, all previous rules and regulations, and any policies regarding the administration and enforcement of Part IV 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.

**R.I. Marine Fisheries ~~Statutes and~~ Regulations**  
**PART IV - SHELLFISH**

4.1 Licenses:

4.1.1 Commercial Licenses: See “*Commercial and Recreational Saltwater Fishing Licensing Regulations*”.

4.1.2 Residents Recreational Harvest: Residents are not required to obtain a license for the harvest of shellfish provided they do not exceed the non-commercial (resident's) daily ~~catch~~ **possession** limit and provided that such shellfish shall not be offered for sale ~~RIMF REGULATION~~ (Penalty -~~Part 6.6~~ (RIGL §20-6-9). ~~ref (RIGL 20-6-1)~~

4.1.3 Non-Resident Recreational Licenses:

(a) Season: Every non-resident over the age of twelve (12) years may obtain a non-resident, non-commercial annual shellfish license for a fee of two hundred dollars (\$200) **(RIGL §20-2-22(a))**.

(b) 14-day: A non-resident may obtain one non-commercial limited license per calendar year covering fourteen (14) days including the date of issue, for eleven dollars (\$11) **(RIGL §20-2-22(b))**.

(c) Non-resident landowner: A non-resident landowner, as defined in RIGL § 20-1-3(a)(3), who owns residential real estate in Rhode Island assessed for taxation at a valuation of not less than thirty thousand dollars (\$30,000) 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). (RIGL §20-2-22**(d)**).

4.1.4 Shellfish Dredging License - Fees: A resident of this State shall pay an annual fee of two hundred dollars (\$200) for a license to take quahaugs, mussels, and surf clams by dredges hauled by power boat. (RIGL §20-2.1-5(2)(ii)(A)).

4.1.5: No person may possess or take shellfish from the waters of the State of Rhode Island for resale or trade unless:

- (a) such person is a legal resident of Rhode Island; and
- (b) such person ~~completes and submits an application for~~ **obtains** a commercial shellfish license as the Director may require; and
- (c) such person while taking or possessing shellfish from Rhode Island waters has on his person a valid, legally obtained, shellfish license issued by the Department ~~of Environmental Management~~. ~~[RIMF REGULATIONS]~~

4.1.6: A commercially licensed person in a fishery shall only sell, barter, or trade

shellfish taken from Rhode Island waters to a licensed shellfish dealer or multipurpose dealer. ~~[RIMF REGULATION]~~

4.1.7: A commercially licensed person in a fishery 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 Department ~~of Environmental Management~~. ~~[RIMF REGULATION]~~

4.2 Night Shellfishing Prohibited - Penalty for Taking Shellfish at Night: Notwithstanding the provisions of any general or public law to the contrary, any person who takes any oysters, clams, quahaugs, scallops, or mussels from any of the waters of this state during the hours between sundown and sunrise shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment not exceeding three (3) years or by both; and any boat, dredges, rakes, or other equipment used in this violation shall be forfeited to the State (RIGL §20-6-23).

4.3 Statewide **Catch Possession** Limits - (Daily Take) Quahaugs, Soft-shell Clams, Sea Clams, Bay Scallops, Mussels, and Oysters except in Management Areas:

4.3.1 Resident Limit ~~-No License Required~~: Unless otherwise specified in ~~Department~~ **the RI Marine Fisheries** Regulations (**RIMFR**), any resident of this State may without a license, take in any one (1) day during the open season, if applicable, not more than one half (1/2) bushel each of quahaugs, soft-shell clams, sea clams, oysters, and mussels, and not more than one (1) bushel of scallops; ~~provided that those quahaugs, soft-shell clams, sea clams, oysters, mussels, or scallops shall not be sold or offered for sale~~ (RIGL §20-6-1; Penalty ~~-Part 4.7;~~ RIGL §20-6-9).

4.3.2 Commercial Limit ~~-License Required~~: Unless otherwise specified ~~by~~ **Department Regulations in the RIMFR**, a holder of a commercial shellfishing license may take and/or possess, in any one (1) day, up to twelve (12) bushels of bay quahaugs, twelve (12) bushels of soft-shell clams, and three (3) bushels of oysters. RIGL 20-6-10(a). Commercially licensed persons may take and/or possess up to 200 bushels of surf clams, or 26 cages (832 bushels) of ocean quahaugs, in any one day (midnight to midnight) ~~(RIMF REGULATION) (Penalty -Part 3.3, Part 4.4; RIGL §20-1-16)~~.

4.3.3 Non-resident Limit ~~-Licensed Individuals Only~~: A holder of a non-resident shellfishing license may take in any one (1) day not more than one (1) peck each of oysters, quahaugs, soft-shell clams, surf clams, or mussels. Any person taking more than these allowances in any one (1) day shall be fined upon conviction, one hundred dollars (\$100) for each bushel or part of a bushel exceeding the prescribed quantity or be imprisoned for not exceeding thirty days, or both (**Penalty** RIGL §20-6-10(b)).

4.4 ~~Allowance of Shellfish Taking Under License:~~

~~(a) Unless otherwise specified by Department Regulations a holder of a commercial shellfishing license may take and/or possess, in any one (1) day, up to twelve (12) bushels of quahaugs, twelve (12) bushels of soft-shell clams, and three (3) bushels of oysters. Commercially licensed persons may take up to 200 bushels of surf clams in one day (RIMF REGULATION) (Penalty – Part 3.3, Part 4.4; RIGL §20-1-16).~~

~~(b) A holder of a non-resident shellfishing license may take in any one (1) day not more than one (1) peck each of oysters, quahaugs, soft-shell clams, or mussels. Any person taking more than these allowances in any one (1) day shall be fined upon conviction one hundred dollars (\$100) for each bushel or part of a bushel exceeding the prescribed quantity or be imprisoned for not exceeding thirty days, or both (RIGL §20-6-10). **Repealed.**~~

**4.5 Method of Harvest:** No person shall 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 authorized pursuant to Section 10.3.1 (RIMF REGULATION) (Penalty - Part 3.3 (RIGL §20-1-16)).

**4.6 Soft-shell Clams - Method of Taking:** No person, either as principal, agent, or employee, shall dig or take by any method other than by forks, rakes, hoes, tongs, or any other device operated by hand, from any of the waters of this State, any soft-shell clam. Any violation of the provisions of this section shall be punishable by a fine of not less than ten dollars (\$10) nor more than fifty dollars (\$50) (RIGL §20-6-15).

**4.7 Penalty for Exceeding Allowance Without License:** Every person who shall take in any one (1) day more than one half (1/2) bushel each of oysters, bay quahaugs, soft-shell clams, surf clams, or mussels from the free and common fisheries of this state, without a license, shall be fined, upon conviction, not exceeding fifty dollars (\$50) and costs for each one half (1/2) bushel or fraction thereof above the stated limits or be imprisoned not exceeding thirty (30) days, or both. (RIGL §20-6-9).

**4.8 Shellfish Management Areas:** ~~– Catch Limits for Quahaugs, Soft-shell Clams, Sea Clams, Mussels, and Oysters: Bristol Harbor Shellfish Transplant Area, Potter Pond, Pt. Judith Pond, Ninigret (Charlestown) Pond, Quonochontaug Pond, Winnapaug (Brightman) Pond, Potowomut, Greenwich Bay, Conimicut Point, Mill Gut, Kickemuit River, Bissel Cove, High Banks, Sakonnet River, and Jenny's Creek have been declared special Shellfish Management Areas. Each of the above referenced areas shall continue to enjoy the designation as a Shellfish Management Area unless modified by the Director.~~

~~No person may possess more than the maximum Shellfish Management Area daily catch limit while in a Management Area. The following daily catch limits have been established for the Management Areas listed above. Note: Conimicut Point Shellfish Management Area has different possession limits, see specific regulations in section 4.11.1.~~

Quahaugs, Soft-shell Clams, Sea Clams, Mussels, and Oysters\*

**4.8.1 - Maximum daily Take possession limit of Bay Quahaugs, Soft-shell Clams, Sea Clams, Mussels, and Oysters (Note: Conimicut Point Shellfish Management Area has different possession limits; see specific regulations in section 4.12):**

**(a) Boat Harvest:**

**(1) R.I. Resident: One (1) peck/day/person;**

**(2) Commercial (in season): Three (3) bushels/day/license holder; maximum of six (6) bushels/boat/day; and maximum of two (2) licensed shellfishers per boat;**

**(3) Licensed Non-Resident: One half (½) peck/day/license holder**

R.I. Resident (no sale)	1 peck each/day/person
Commercial (in season)	3 bu each/day/license holder maximum of 6 bushels each/boat/day; and maximum of two licensed shellfishers per boat
Licensed Non-Resident (no sale)	½ peck each/day/license holder
* Oyster season is open from September 15 to May 15 annually.  (Note: The harvest and possession of oysters in Quonechontaug Pond is prohibited from September 15, 2010 to September 15, 2013. See section 4.12.3. The harvest and possession of oysters in Bissel Cove/Fox Island is prohibited from September 15, 2010 to September 15, 2015. See section 4.12.6)	

**(b) Shore Digging:**

This maximum daily catch limit for shoredigging of soft shell clams, bay quahaugs, mussels, and oysters [in season] is:

**(1) R.I. Resident: One (1) peck each/person/day/person;**

**(2) Commercial (in season): Three (3) bushels/day/license holder; maximum of 6 bushels/boat/day; and maximum of two licensed shellfishers per boat;**

**(i) Exception: In the Greenwich Bay Management Area, the possession limit is three (3) bushels/day/license holder whenever**

sub-area 1 is open to boat harvest, but one (1) peck/day/license holder whenever sub-area 1 is not open to boat harvest.

(3) Licensed Non-Resident: One half (½) peck/day/license holder.

R.I. Resident (no sale)	1 peck each/day/person
Commercial (in-season)	3 bu each/day/license holder (Exception: In the Greenwich Bay Management Area, the limit is 3 bu/day/license holder whenever sub-area 1 is open to boat harvest, but 1 peck/day/license holder whenever sub-area 1 is not open to boat harvest)
Licensed Non-Resident (no sale)	½ peck each/day/license holder
<p>* Oyster season is open from September 15 to May 15 annually.</p> <p>(Note: The harvest and possession of oysters in Quonochontaug Pond is prohibited from September 15, 2010<del>3</del> to September 15, 2013<del>6</del>. See section 4.12.3. The harvest and possession of oysters in Bissel Cove/Fox Island is prohibited from September 15, 2010 to September 15, 2015. See section 4.12.6)</p>	

Daily catch limits apply to all Management Areas unless otherwise specified.

**4.8.2** The use of diving apparatus is prohibited while shoredigging (~~RIMF REGULATION~~) (Penalty — Part 3.3; (RIGL (§20-1-16)).

~~4.8.1 Tagging/Labeling Requirements: All shellfish taken by licensed commercial fishers of shellfish from Shellfish Management Areas must be in a container which is tagged and labeled with the fisher's name, license number, date, and management area from which shellfish was removed prior to any of the following:~~

- ~~— leaving the waters of the management area which has been approved for the harvest of shellfish by the Rhode Island Department of Environmental Management;~~
- ~~— shellfish are removed from the boat; or~~
- ~~— shellfish are offered for sale.~~

~~(RIMF REGULATION) (Penalty - Part 3.3 (RIGL §20-3-3))~~

**4.9 Temporary Shellfish Limit in Shellfish or Marine Life Management Areas:** The Department may establish a reduced shellfish limit in any **designated Marine Life** Management Area for a period not to exceed sixty (60) days. The following reduced **possession** limits shall apply **for the taking of Bay Quahaugs, Soft-shell Clams, Sea Clams, and Oysters** in any area so designated:

**4.9.1 R.I. Resident: One (1) peck each/day/person;**

**4.9.2 Commercial: One (1) bushel/day/license holder;**

**4.9.3 Licensed Non-Resident: One half (½) peck/day/license holder**

**Quahaugs, Soft-shell Clams, Sea Clams, and Oysters  
Reduced Maximum Daily Take for Marine Life Management Areas**

R.I. Resident (no sale)	1 peck each/day/person
Commercial	1 bu each/day/license holder
Licensed Non-Resident (no sale)	½ peck each/day/license holder

~~(RIMF REGULATION)~~ [Penalty ~~–Part 4.4 or 4.7~~ (RIGL §20-6-9 or §20-6-10)]

**4.10 Greenwich Bay Shellfish Management Area:**

~~4.10.1: The conditionally approved waters of Greenwich Bay are established as a Shellfish Management Area. This area is defined as **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 **and is further divided into sub-areas and described as follows:**~~

(a) GB Sub-Area 1: Described as the waters east of a line between the Rhode Island ~~Department of Environmental Management~~ **DEM** range marker located at the end of Neptune Street in Chepiwanoxet to the Rhode Island ~~Department of Environmental Management~~ **DEM** range maker located on Cedar Tree Point, Warwick, and north of a line between the far northeastern section of Chepiwanoxet Point and the westernmost flagpole on Promenade Street, Old Buttonwoods.

(b) GB Sub-Area 2: 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.

~~(dc)~~ GB Area 3: 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.

~~4.10.2 Shellfish harvesting will be allowed only when declared open by the DEM Office of Water Resources based upon water quality considerations. Regulations by the Office of Water Resources shall supersede the regulations below.~~



4.10.32 Shore Digging: will be permitted between sunrise and sunset daily.

4.10.3 Boat Harvest in 4.10.4 Greenwich Bay Sub-Areas 1 and 2: The areas shall be subject to an annual December harvest schedule established by the Director, pursuant to recommendations developed by the Division of Fish and Wildlife (**DFW**) and the RI Marine Fisheries Council (**RIMFC**). Said recommendations shall be submitted to the Director at least sixty (60) days prior to the first scheduled opening. The December schedule may include up to forty-eight (48) hours of permitted shellfishing, spread over any number of days during the month, excepting December 25.

If weather or water quality conditions during the month of December prevent the area from opening on two or more scheduled days, the ~~Division of Fish and Wildlife~~ (**DFW**) may modify the December schedule to allow for additional hours or days of permitted shellfishing, provided:

- (a) the proposed modification(s) is/are submitted in writing to the ~~Division of Fish and Wildlife~~ (**DFW**) by a member of the ~~Marine Fisheries Council~~, **RIMFC** appointed by the ~~Marine Fisheries Council~~, **RIMFC**, who shall represent the interests of the commercial shellfishing industry, including harvesters and dealers, regarding the proposed modification(s);
- (b) the total number of hours of permitted shellfishing for the month does not exceed forty-eight (48) hours; and
- (c) the re-scheduled hours or days are announced publicly by the ~~Division of Fish and Wildlife~~ (**DFW**) with at least seventy-two (72) hours of advance notice.

4.10.4 Winter Shellfish Harvest Schedule for Western Greenwich Bay (both GB Sub-Area 1 and GB Sub-Area 2):

- (a) For December 2013: In accordance with DEM Office of Water Resources, "Notice of Polluted Shellfish Grounds" document dated May 2013, GB Sub-Area 1 and GB Sub-Area 2 are closed to shellfishing beginning sunrise on December 1 through sunrise of January 1.
- (b) On Thursday, January 2, 2014: shellfishing from a boat will be permitted between 8:00 A.M. and 12:00 P.M. Noon.
- (c) From January 6, 2014 through April 30, 2014: shellfishing from a boat will be permitted only between 8:00 A.M. and 12:00 P.M. Noon (4 hours per day) on: Mondays, Wednesdays, and Fridays.

4.10.5(e) Default harvest schedules for GB Sub-Areas 1 & 2: If no action is taken to establish specific harvest schedules and/or closures for the December through April

harvest season, and harvest seasons subsequent thereto, the sub-areas shall revert to the following default harvest schedule:

**(a)** Shellfishing from a boat will be permitted only between 8:00 A.M. and 12:00 P.M. on Mondays, Wednesdays, and Fridays, beginning on the second Wednesday of December and continuing through the end of April excepting December 25 and January 1 if they fall on a Monday, Wednesday, or Friday.

**4.10.6** GB Sub-Area 3 is open to shellfishing from a boat between sunrise and sunset daily on an annual basis.

**4.11 Sakonnet River Shellfish Management Area:** Described as the waters north of a line from Sachuest Point to Sakonnet Light. The northern boundary of the Management Area will be 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, and bounded on the west by a north/south line running from Flint Point to Taggert's Ferry, so-called.

**4.11.1** ~~The following special regulations apply in the Sakonnet River Shellfish Management Area: the~~ daily **take possession limit** for licensed dredge boats will be limited to 200 bushels of surf clams. A by-catch of bay quahaugs will be permitted. It shall be calculated at the rate of one bushel of bay quahaugs for each ten (10) bushels of surf clams in possession of the harvester. Total by-catch of bay quahaugs shall not exceed twelve (12) bushels per vessel. ~~(RIMF REGULATION) (Penalty Part 3.3; (RIGL 20-3-3))~~

**4.11.12 Conimicut Point Shellfish Management Area:** ~~4.11.1-1: Certain waters adjacent to Conimicut Point are established as a Shellfish Management Area. This area is defined as~~ **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, Warwick and the southern most extension of Bay Road, Barrington.

~~4.11.1-2: Shellfish harvesting in Conimicut Point Shellfish Management Area will be allowed only when declared open by the DEM Office of Water Resources based upon water quality considerations.~~

~~4.11.1-3: In the Conimicut Point Shellfish Management Area,~~

**4.12.1 Commercial Possession Limit – Soft-shell clams:** ~~The daily commercial possession limit shall be~~ Three (3) bushels of soft-shell clams per day per license holder and a maximum of six (6) bushels per day per vessel with a maximum of two commercially licensed shellfishers per boat.

**4.12.2 Recreational possession limit – Soft-shell clams:** ~~The daily~~

~~recreational possession limit for RI residents shall be~~ **For residents**, one (1) peck of soft-shell clams per day; ~~and the possession limit~~ for licensed recreational non-residents, ~~shall be~~ one-half (1/2) peck of soft-shell clams per day.

~~4.11.1-4.12.3~~ The daily **catch possession** limits for shellfish species, other than soft-shell clams, shall be the statewide limits as provided by these regulations, not those applicable to management areas.

~~4.12 Shellfish Management Areas Closed to Shellfishing (also see: Areas Closed Due to Pollution):~~

~~4.12.113~~ Mill Gut: ~~4.12.1-1: Mill Gut~~ **Described as the waters of Mill Gut, in the town of Bristol, lying south of the northern-most bridge on Colt Drive.**

~~4.13.1 - in Bristol~~ **Closed area: Mill Gut** is closed in its entirety until further notice, with the exception that between sunrise the second Wednesday in December and sunset, April 30 annually the area will be open for the harvesting of quahaugs, soft-shell clams, mussels, and oysters in accordance with the **catch possession** limits set forth in section 4.8.

~~4.12.214~~ Winnapaug (~~Brightman~~) Pond: **Described as the waters of Winnapaug Pond in its entirety, in the town of Westerly.**

~~4.12.2-4.14.1 - Closed Area:~~ The following area in Winnapaug Pond will be closed to all shellfishing except for the harvest of bay scallops by dip net only: the area 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.

~~4.12.315~~ Quonochontaug Pond **in its entirety, in the towns of Charlestown and Westerly.**

~~4.12.3-4.15.1:~~ The harvest and possession of oysters in Quonochontaug Pond is prohibited from September 15, 2013 to September 15, 2016 (for three years).

~~4.12.3-24.15.2 - Closed Areas:~~ The following areas in Quonochontaug Pond will be closed to all shellfishing except for the harvest of bay scallops by dip net only:

(a) The western closure area is defined as 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 51.5 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.

(b) The eastern closure area is defined as 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.  
~~(RIMF REGULATION) (Penalty Part 3.3; (RIGL 20-3-3)~~

**4.12.416 Ninigret (Charlestown) Pond; in its entirety in the Town of Charlestown.**

~~4.12.4~~**4.16.1 - Closed Areas:** The following area within Ninigret Pond ~~in Charlestown~~ will be closed to all shellfishing except for the harvest of bay scallops by dip net only: all 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 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".

**4.12.517 Potter Pond in its entirety, Town of South Kingstown, west of the bridge at Succotash Road.**

**4.12.5-117.1: Closed Areas:** The following area within Potter Pond in South Kingstown will be closed to all shellfishing except for the harvest of bay scallops by dip net only: An 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.

**\*PUBLIC HEARING ITEM #13\***  
**Bristol Harbor Shellfish Management Area Boundaries**

**4.2218 Bristol Harbor Shellfish ~~Transplant~~ Management Area:**

**4.2218.1** The waters of Bristol Harbor described below are designated as a Shellfish Management Area. This area is defined as that area of Bristol Harbor southerly of a line between ~~Johnson's Dock (so-called) on the west side of Bristol Harbor and~~ **CRMC permitted dock #419 located at 163 Poppasquash Road (so called Rockwell's Dock) to** the northwest corner of the ~~Coast Guard Dock, on the east side of Bristol Harbor~~ **Rockwell Pier municipal parking lot in Bristol Harbor**, and north of a line between **CRMC Permitted Dock # 1601 at the boat house to the rear of 363 Poppasquash Road (so called Johnson's Dock) Rockwell's Dock (so-called) on the west side of Bristol Harbor**, and the northwest corner of the Coast Guard Dock **in Bristol Harbor**. The area is bordered on the west by the three (3) foot contour line along the shore between ~~Rockwell's Dock and Johnson's Dock~~ **Dock #419 and Dock # 1601** and on the east by the existing pollution line.

~~4.22.1-1 Shellfish harvesting will be allowed only when declared open by the DEM Office of Water Resources based upon water quality considerations. Regulations by the Office of Water Resources shall supersede the regulations below.~~

**4.2218.2 Boat Harvest:**

- (a) For December 2013: shellfishing from a boat will not be permitted.
- (b) Beginning January 3, 2014: shellfishing from a boat will be permitted only between 8:00 A.M. and 12:00 P.M. Noon (4 hours per day) on: Mondays, Wednesdays, and Fridays.
- (c) From February 1 through April 30, 2014: shellfishing from a boat will be permitted from sunrise to sunset seven (7) days a week.
- (d) The area is closed to all shellfishing from a boat from May through November, annually, and will reopen every December in accordance with the annually established December schedule.
- (e) Default harvest schedule: If no action is taken to establish specific harvest schedules for the December through April harvest season, and harvest seasons subsequent thereto, the area shall revert to the following default harvest schedule:

Shellfishing from a boat will be permitted only between 8:00 A.M. and 12:00 Noon on Mondays, Wednesdays, and Fridays, beginning on the second Wednesday of December and continuing through the end of April excepting December 25 and January 1 if they fall on a Monday,

Wednesday, or Friday.

**4.2419 Bissel Cove/Fox Island ~~Transplant Management~~ Area: 4.24.1: Described at the waters of** Bissel Cove and the adjacent waters of Narragansett Bay in the town of North Kingstown; including the entirety of Bissel Cove and the adjacent waters 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 is established as a Shellfish Management Area.

~~4.24.1-1 Shellfish harvesting will be allowed only when declared open by the DEM Office of Water Resources based upon water quality considerations. Regulations by the Office of Water Resources shall supersede the regulations below.~~

~~4.12.6~~**19.1 Bissel Cove/Fox Island Oyster Harvest Moratorium: 4.12.6-1:** The harvest and possession of oysters in the Bissel Cove/Fox Island Shellfish Management Area is prohibited from September 15, 2010 to September 15, 2015 (for five years). ~~(RIMF REGULATION)~~ (Penalty - ~~Part 4.4 or 4.7;~~ (RIGL §20-6-9 or §20-6-10))

**4.2419.2 Shore Digging:** Shore digging will be permitted daily between sunrise and sunset.

**4.2419.3 Boat Harvest:**

(a) Beginning the 2<sup>nd</sup> Wednesday of December through April 30, 2014 – shellfishing from a boat will be permitted from sunrise to sunset seven (7) days per week for the harvesting of quahaugs, soft-shell clams, and mussels.

(b) The area is closed to all shellfishing from a boat from May through November, annually, and will reopen every December in accordance with the annually established December schedule.

(c) Default harvest schedule: If no action is taken to establish specific harvest schedules for the December through April harvest season, and harvest seasons subsequent thereto, the area shall revert to the following default harvest schedule:

Shellfishing from a boat will be permitted only between 8:00 A.M. and 12:00 Noon on Mondays, Wednesdays, and Fridays, beginning on the second Wednesday of December and continuing through the end of April.

~~4.25: Repealed 12/01~~

**4.20 Point Judith Pond, including East Pond, in their entirety in the towns of South Kingstown and Narragansett.**



~~4.2621~~ Kickemuit River Shellfish Management Area Regulations: ~~4.26.1~~ ~~The area is defined as follows:~~ Described as the marine waters of the Kickemuit River are those north of a line connecting nun buoy 6 and can buoy 1 at Bristol Narrows.

~~4.26.221.1:~~ ~~Upon certification of water quality by the DEM Office of Water Resources,~~ shellfishing will be permitted throughout the area between sunrise to sunset daily. ~~When the waters are certified for shellfishing by the DEM Office of Water Resources~~ shore digging will be permitted when the area is open (in season).

~~4.26.3 Repealed 12/01~~

~~4.26.4 Repealed 2/18/01~~

~~4.26.5 Water quality certification will determine whether or not shellfishing is allowed in these areas. Regulations established by the DEM Office of Water Resources shall supersede these regulations. (RIMF REGULATIONS) (Penalty – Part 3.3; (RIGL §20-3-3)~~

4.2722 Potowomut Shellfish Management Area: The Potowomut Shellfish Management Area is divided into the following three areas:

4.27.1(a)22.1 - Area A: is defined as the area 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).

(a) Harvesting Schedule: ~~(1)~~ Commencing May 1, 2013, shellfishing will be permitted from sunrise to sunset on: Sundays through Saturdays, seven (7) days a week, with a commercial possession limit of three (3) bushels/day/license holder.

4.27.1(b)22.2 - Area B: is defined 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.

(a) Harvesting Schedule: ~~(1)~~ Area B is closed to shellfishing until further notice.

4.27.1(c)22.3 - Area C: is defined as the area 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.

(a) Harvesting Schedule: ~~(1)~~ Shellfishing will be permitted from sunrise to sunset on: Sundays through Saturdays, seven (7) days a week, with a commercial possession limit of three (3) bushels/day/license holder.

~~4.27.2 Shellfish harvesting will be allowed only when declared open by the DEM Office of Water Resources based upon water quality considerations. Regulations by the~~

~~Office of Water Resources shall supersede the regulations below.~~

~~4.2823~~ High Banks Shellfish Management Area: ~~4.28.1:~~ The waters of High Banks are established as a Shellfish Management Area. This area is defined 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.

~~4.28.2 Shellfish harvesting will be allowed only when declared open by the DEM Office of Water Resources based upon water quality considerations. Regulations by the Office of Water Resources shall supersede the regulations below.~~

~~4.2823.1~~ Harvesting Schedule: ~~(a) Commencing May 1, 2013:~~ Shellfishing will be permitted from sunrise to sunset on: Sundays through Saturdays, seven (7) days a week, with a commercial possession limit of three (3) bushels/day/license holder.

~~4.2924~~ Jenny's Creek Shellfish Management Area: ~~Includes waters of Jenny's Creek north of the inlet at Pine Hill Cove.~~

~~4.24.1 – Closed Areas:~~ The entire area is closed to all shellfishing until further notice ~~(RIMF REGULATION) (Penalty – Part 3.03 (RIGL 20-3-3)).~~

~~4.13: repealed 12/2001~~

~~4.2325~~ Opening Shellfish on Water: No person shall possess the meats of more than six (6) shellfish while shellfishing on the waters of the State or throw the shells of open scallops onto the scallop beds. (RIGL §20-6-21) ~~[Penalty – Part 6.6; (RIGL §20-6-13)]~~

~~4.4426~~ Transfer of Shellfish from Uncertified Waters: The Director ~~of Environmental Management~~ 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 economical benefit of the state after all necessary safeguards to insure their cleanliness. (RIGL §20-6-26; Penalty ~~–Part 4.17;~~ §20-6-29)

~~4.4527~~ 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. (RIGL §20-6-27; Penalty ~~–Part 4.17;~~ §20-6-29)

~~4.4628~~ Cost of Transfer of Shellfish: For the transfer of shellfish pursuant to § 20-6-26, the Director is authorized to hire dredge boats or hand-rakers and to set the rate of payment. Any transferred shellfish may be sold by the Director, and the proceeds of



that sale shall be retained under the control of the Director for the purpose of assisting in the cost of the transfer of shellfish from uncertified waters to approved areas from time to time as the transfer becomes necessary or expedient. (RIGL §20-6-28; Penalty ~~Part 4.17; (§20-6-29)~~)

4.1729 Penalty for Improper Taking of Transferred Shellfish: Any person violating rules or regulations promulgated by the Director ~~of Environmental Management~~ as provided for in Sections 20-6-26 to 20-6-28, shall, upon conviction, be subject to a fine not exceeding five hundred dollars (\$500) or imprisoned not exceeding thirty (30) days or both. (RIGL §20-6-29)

~~4.1830 Shellfish Grounds - Polluted Area. For a discussion of the statutes and penalty provisions governing shellfishing in polluted areas, refer to Chapter 20-8-1, as amended, of the Rhode Island General Laws. **Shellfish harvesting will be allowed in all areas, except those areas declared closed by the DEM Office of Water Resources based upon water quality considerations pursuant to RIGL Chapter 20-8.1.**~~

~~4.19 [Repealed 11/20/02]~~

~~4.20 Surf Clams and Ocean Quahaugs.~~

~~4.20.1 Gear Restrictions: The following gear restrictions shall apply to vessels fishing in the territorial waters of Rhode Island for surf clams:~~

~~4.20.1-1: It is unlawful for any vessel to operate with any hydraulic dredge with a blade, knife, or manifold which is greater than 48 inches in maximum width.~~

~~4.20.1-2: It is unlawful for any vessel to operate more than one dredge while harvesting surf clams.~~

~~4.20.2 Trip Limits: The following limits shall apply to vessels fishing in the territorial waters of Rhode Island:~~

~~4.20.2-1: It is unlawful for any dredge vessel to take and/or possess more than 200 bushels of surf clams per vessel.~~

~~4.20.2-2: Except as allowed in Part 6.8.3, it is unlawful for any vessel to catch, harvest, possess, have on board, land, or off load, any surf clams which are less than 5 inches in the longest shell diameter.~~

~~4.20.2-3: Vessels properly licensed to do so may land surf clams and ocean quahaugs legally taken outside the territorial waters of Rhode Island in excess of the trip limit established by Part 4.20.2-1, provided that no vessel engaged in fishing for surf clams or ocean quahaugs within territorial waters may possess or have on board more than the prescribed limit.~~

~~4.20.2-4: It is unlawful for any dredge vessel to take and/or possess more than 26 cages (832 bushels) of ocean quahaugs (RIMF REGULATION) (Penalty Part 3.3; (RIGL 20-3-3)).~~

## 4.31 MINIMUM SIZES FOR SHELLFISH

### 4.2131.1 Minimum Size of Quahaugs, Soft-Shell Clams, and Blue Mussels:

**(a) Bay Quahaug:** No person shall take or have in his custody or possession quahaugs of less than one inch (1") shell thickness (hinge width). For purposes of this regulation, hinge width is defined as the distance between the convex apex of the right shell and convex apex of the left shell ~~ref (RIGL §20-6-11) (RIMF REGULATIONS) (Penalty – Part 3.3; (RIGL 20-3-3).~~

~~(a)(b) No person shall take and/or possess any quahogs less than one inch (1") shell thickness (hinge width). In addition, **Soft-Shell Clams:** no person shall take and/or possess soft-shell clams, taken from the free and common soft-shell clam fisheries, of a diameter less than two inches (2") taking the maximum shell diameter, or any oysters, taken from the free and common oyster fisheries, measuring less than three inches (3") measured parallel to the long axis of the oyster, unless greater minimum sizes are established by the Director, in consultation with the Marine Fisheries Council.~~

### 4.31.2 Oysters:

**(a) Minimum Size:** Three (3) inches measured parallel to the long axis of the oyster. ~~ref (RIGL §20-6-11) (RIMF REGULATION) (Penalty – Part 3.3; (RIGL §20-3-3)~~

**(b) Season:** September 15 to May 15 annually.

**4.31.3 Sea Clams (Surf Clams) Minimum Size:** Five (5) inches measured parallel to the long axis of the clam. ~~(RIMF REGULATION) (Penalty – Part 3.3; (RIGL §20-3-3)~~

**4.31.4 Scallops -- Taking and Possession of Seed Scallops prohibited:** Every person taking any seed scallops, and who fails to restore them as soon as possible to their natural beds in the water from which taken, shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100), or be imprisoned not exceeding thirty (30) days, or both, for each offense. For the purpose of this Chapter, a "seed scallop" means a scallop with a bright, thin, slightly curved shell with no foreign adherent, the shell having no well-defined raised annual growth line, and the scallop being less than one (1) year old. (RIGL §20-6-17)

**4.31.5 Penalty:** Any person who takes and/or possesses shellfish of less than the minimum size, as delineated above, upon conviction, shall be fined not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) for each and every fifteen (15) shellfish taken. Additionally, any person who takes and/or possesses shellfish of less than the minimum size commingled and/or otherwise stored or contained with shellfish of not less than the minimum size, where the percentage of the less

than minimum size shellfish is not less than ten percent (10%) of the total piece count of the commingled and/or otherwise stored or contained package, shipment, or container, shall be subject to seizure and/or forfeiture of the entire commingled and/or otherwise stored or contained package, shipment, or container, in accordance with the provisions of ~~§§ 20-1-8(e) and (f) and 20-1-8.1.~~ **(RIGL §20-6-11).**

#### **4.3032 Handling of Shellfish:**

**4.3032.1:** Commercial shellfish harvesters and shellfish aquaculturists 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.

**4.3032.2:** Containers used for storing shell stock must be clean

**4.3032.3:** 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.

**4.3032.4:** Shellfishermen or aquaculturists 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.

**4.3032.5:** Shellfishermen or aquaculturists using a vessel to harvest and transport shell stock shall prevent bilge water from coming into contact with shell stock.

**4.3032.6:** Shellfishermen or aquaculturists 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.

**4.3032.7:** Shellfishermen or aquaculturists using a vessel to harvest and transport shell stock shall locate bilge pumps so that discharge shall not contaminate shell stock.

**4.3032.8:** 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.

**4.3032.9:** 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 (RIGL §46-12-39). **(RIMF REGULATION)**

#### 4.3133 Tagging of Shellfish:

4.3133.1: 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 section 4.31.2 below, prior to the following:

4.31.1-1(a): the fisherman leaves the approved waters of the harvest area identified on the (see Part XVII – Maps), shellfish management area or the aquaculture site identified by the CRMC Assent number in which the shellfish were taken;

4.31.1-2(b): the shellfish are removed from the boat; or

4.31.1-3(c): offered for sale.

4.3133.2: 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 below:

4.31.2-1(a): harvester’s identification number as assigned by DEM;

4.31.2-2(b): date of harvest;

4.31.2-3(c): the harvest location as identified on the (see Part XVII – Maps), shellfish management area or aquaculture site identified by the CRMC Assent number;

4.31.2-4(d): type (species) of shellfish; and

4.31.2-5(e): approximate quantity of shellfish

4.3133.3: Each tag shall also carry the following statement in bold capitalized type “THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY OR IS RETAGGED AND THEREAFTER KEPT ON FILE FOR 90 DAYS”

4.3133.4: 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 R.I. Department of Health regulations.

4.3133.5: Bulk tagging of shell stock will be permitted only with prior approval of the Director under the following criteria:

4.31.5-1(a): 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

4.31.5-2(b): a statement that all shell stock containers in this lot have the same harvest data and area of harvest; and

4.31.5-3(c): number of containers in the unit. ~~(RIMF REGULATION)~~

#### 4.3234 Temperature control of shellfish:

~~4.3234.1:~~ Shellfish harvesters 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.

~~4.3234.2:~~ The maximum allowable time between the harvest of shell stock and delivery to a dealer shall be twenty hours. Possession of shell stock in excess of 20 hours is prohibited.

~~4.3234.3:~~ Ocean quahaugs (*Arctica islandica*) and surf clams (*Spisula solidissima*) are exempt from the aforementioned temperature control requirements. ~~(RIMF REGULATION)~~

#### ~~4.33 Denial, Suspension, or Revocation of License~~

~~4.33.1 In addition of other penalties provided by law or other rule or regulation, any licensed shellfisherman who violates the provision of RIGL § 20-6-24, or these rules, or an order issued by the Director shall be subject to suspension, revocation or denial of his license in accordance with RIGL §§ 20-2-13 and 42-17.1-2(s).~~

#### ~~4.33.2 Penalties~~

~~4.33.2-1 First violation, up to six (6) months suspension of license.~~

~~4.33.2-2 Second violation, revocation of license.~~

~~4.33: The Department of Environmental Management may deny renewal of shellfisherman license for violation of the provisions of RIGL §20-6-24, these rules or any order issued by the Director during a prior license period. (RIMF REGULATION)~~  
**Repealed.**

~~4.34: Severability -- If any section or provision of these rules and regulations is held invalid by a court of competent jurisdiction, the remaining sections of provisions of these rules and regulations shall not be affected thereby. (RIMF REGULATION)~~ **Repealed**

### **\*PUBLIC HEARING ITEM # 14\***

#### **Conch**

4.35 Conch (Channeled Whelk – *Busycotypus canaliculatus* and Knobbed Whelk – *Busycon carica*) – General provisions applicable to commercial and recreational taking of conch:

(a) Taking by RI state residents only: The taking of conch from waters under the jurisdiction of the State of Rhode Island for either commercial or recreational purposes shall be restricted to legal residents of the State of Rhode Island.  
~~(RIMFC REGULATION)~~

(b) Mutilation and/or Possession of Conch Meat; cooked or uncooked: Prior to landing of any conchs taken for either commercial or recreational purposes, No person shall mutilate any cooked or uncooked conch by breaking and removing the meat from the shell or have in his or her possession any part or parts of any uncooked conch so mutilated. In any and all prosecutions under this Section, the possession of any part or parts of any cooked or uncooked conch so mutilated shall be prima facie evidence sufficient to convict. All conchs are to be landed whole in the shell. ~~(Penalty – Part 3.3; RIGL §20-1-16)~~

(c) Unauthorized Hauling of Conch Pots: No person except the Director may haul, unduly disturb, or remove any animal from a conch pot of a person possessing a valid commercial fishing license to take conch, or from a person fishing recreationally for conch, without the written permission of that person.

(d) Unauthorized Possession and/or Transfer of Conch Pots: No person except the Director may sell, transfer, or have in his or her possession or control any conch pot, or associated line (warp) and/or buoy, without the written permission of the owner.

(e) Hauling or Setting Conch Pots at Night: No person shall haul or unduly disturb any conch pot within the territorial waters of this state between the hours of one (1) hour after sundown and one (1) hour before sunrise.

## 1. Season

### Option #1 – Status quo

~~(e)~~ (f) Commercial and Recreational Season: The season for conch will be open from January 1st through December 31st. (RIGL §20-3-2)

### Option #2 – 4.4% reduction

~~(e)~~ (f) Commercial and Recreational Season: The season for conch will be open from ~~January~~ May 1st through December 31st and will be closed from January 1st through April 30th (RIGL§ 20-3-2).

### Option #3 – 5% reduction

~~(e)~~ (f) Commercial and Recreational Season: The season for conch will be ~~open~~ closed from ~~January~~ August 1st through ~~December~~ September 31st and will be open during January 1st through July 31st and October 1st through December 31st (RIGL§ 20-3-2).

## 2. Legal Minimum Size

### Option #1

~~(e)~~ (g) Legal Minimum Size of Conch:

- (1) No person fishing commercially or recreationally shall take, possess, sell, possess for sale, or offer for sale any conch with a shell **width or shell length** measuring less than ~~2-3/4 inches (69.85 mm) in diameter or a shell length less than 4-3/4 inches (120.65 mm)~~ **the dimensions specified by the following schedule:** (RIMF REGULATION) (Penalty – Part 3.3; RIGL §20-1-16).

<u>Year</u>	<u>Shell Width</u>	<u>Shell Length</u>
<u>2014</u>	<u>3" (76.2 mm)</u>	<u>5-39/128" (134.74 mm)</u>
<u>2015</u>	<u>3-1/4" (82.55 mm)</u>	<u>5-11/16" (144.46 mm)</u>

**OR**

<u>Year</u>	<u>Shell Width</u>
<u>2014</u>	<u>3" (76.20 mm)</u>
<u>2015</u>	<u>3-1/4" (82.55 mm)</u>

**Option #2**

**(e) (g) Legal Minimum Size of Conch:**

- (1) No person fishing commercially or recreationally shall take, possess, sell, possess for sale, or offer for sale any conch with a shell **width or shell length** measuring less than ~~2-3/4 inches (69.85 mm) in diameter or a shell length less than 4-3/4 inches (120.65 mm)~~ **the dimensions specified by the following schedule.** (RIMF REGULATION) (Penalty – Part 3.3; RIGL §20-1-16).

<u>Year</u>	<u>Shell Width</u>	<u>Shell Length</u>
<u>2014</u>	<u>2-7/8" (73.03 mm)</u>	<u>5-15/128" (129.98 mm)</u>
<u>2015</u>	<u>3" (76.20 mm)</u>	<u>5-39/128" (134.74 mm)</u>
<u>2016</u>	<u>3-1/8" (79.38 mm)</u>	<u>5-63/128" (139.50 mm)</u>
<u>2017</u>	<u>3-1/4" (82.55 mm)</u>	<u>5-11/16" (144.46 mm)</u>

**OR**

<u>Year</u>	<u>Shell Width</u>
<u>2014</u>	<u>2-7/8" (73.03 mm)</u>
<u>2015</u>	<u>3" (76.20 mm)</u>
<u>2016</u>	<u>3-1/8" (79.38 mm)</u>
<u>2017</u>	<u>3-1/4" (82.55 mm)</u>

**Option #3**

**(e) (g) Legal Minimum Size of Conch:**

- (1) No person fishing commercially or recreationally shall take, possess, sell, possess for sale, or offer for sale any conch with a shell **width or shell**



**length** measuring less than 2-3/4 inches (69.85 mm) in diameter or a shell length less than 4-3/4 inches (120.65 mm) **the dimensions specified by the following schedule.** (RIMF REGULATION) (Penalty - Part 3.3; RIGL §20-1-16).

<u>Year</u>	<u>Shell Width</u>	<u>Shell Length</u>
<u>2014</u>	<u>2-7/8" (73.03 mm)</u>	<u>5-15/128" (129.98 mm)</u>
<u>2016</u>	<u>3" (76.20 mm)</u>	<u>5-39/128" (134.74 mm)</u>
<u>2018</u>	<u>3-1/8" (79.38 mm)</u>	<u>5-63/128" (139.50 mm)</u>
<u>2020</u>	<u>3-1/4" (82.55 mm)</u>	<u>5-11/16" (144.46 mm)</u>

**OR**

<u>Year</u>	<u>Shell Width</u>
<u>2014</u>	<u>2-7/8" (73.03 mm)</u>
<u>2016</u>	<u>3" (76.20 mm)</u>
<u>2018</u>	<u>3-1/8" (79.38 mm)</u>
<u>2020</u>	<u>3-1/4" (82.55 mm)</u>

(2) Any person who takes and/or possesses conch of less than the minimum size, as delineated above, upon conviction, shall be fined not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) for every fifteen (15) conch that are less than the minimum size and found to be in his/her possession. Additionally, if any person who is found in possession of conch of less than the minimum size that are commingled and/or otherwise stored or contained with conch that are of at least minimum size, and the percentage of the less than minimum size conch is ten percent (10%) or more of the total piece count of the conch commingled and/or otherwise stored or contained in a package, shipment, or container, the entire commingled and/or otherwise stored or contained package, shipment, or container, shall be subject to seizure and/or forfeiture in accordance with the provisions of RIGL § 20-1-8((a)(5), 20-1-8(a)(6).

~~(3) Any person who is found to possess conch in violation of sub-sections 4.35(a), or 4.35(b), or 4.35.1-1, or 4.35.1-2, or 4.35.1-3 by a court of competent jurisdiction shall be punishable pursuant to the provisions of RIGL § 20-1-16. [Penalty - Part 3.3; RIGL § 20-1-16]~~

~~(4) In addition to provisions of Subsection 4.35(e)(3), any person who is found to possess conch in violation of Subsection 4.35(a), or 4.35(b), or 4.35(d), or 4.35.1-1, or 4.35.1-2, or 4.35.1-3 by the Administrative Adjudication Division consistent with the requirements of RIGL Chapter 42-17.7 may have his/her license to harvest issued by the Department suspended or revoked consistent with governing, duly promulgated regulations (RIGL § 20-3-6; Penalty - Part 3.3; RIGL §§ 20-1-16 and 20-3-6).~~



**(h) Fishery Closure due to Eminent Public Health Risk (Bio-toxins): A prohibition on the taking and landing of conchs from any of the waters under the jurisdiction of the State of Rhode Island shall be in effect upon a determination by the Office of Water Resources of an eminent public health risk caused by the consumption of conchs exposed to biotoxins. The prohibition on the taking and landing of conchs shall terminate upon a determination by the Office of Water Resources that an eminent public health risk from biotoxins caused by the consumption of conchs no longer exists.**

**4.35.1 Commercial Taking of Conch (Channeled Whelk - *Busycotypus canaliculatus* and Knobbed Whelk - *Busycon carica*):**

**4.35.1-1 License Required for Commercial Taking of Conch:** No person either as principal, agent, or servant shall at any time catch or take any conch from any of the waters under the jurisdiction of the State of Rhode Island, or place, set, keep, maintain, supervise, lift, raise, or draw in or from any of those waters or cause to be placed, set, kept, maintained, supervised, lifted, raised, or drawn in or from any of those waters any pot or other contrivance, designed or adapted for the catching or taking of conch unless licensed to do so. ~~(Penalty—Part 1.16; (RIGL 20-1-16).~~

**3. Commercial Possession Limit**

**Option #1 – Status Quo**

**4.35.1-2 Commercial Possession Limit:** A holder of any commercial fishing license issued by the State of Rhode Island authorized for the taking of conch may take and/or possess, in any one (1) day, up to 35 bushels of conch per vessel per calendar day. ~~(RIMFC REGULATION) (Penalty—Part 3.3, RIGL§ 20-3-3)~~

**Option #2 – 10% reduction**

**4.35.1-2 Commercial Possession Limit:** A holder of any commercial fishing license issued by the State of Rhode Island authorized for the taking of conch may take and/or possess, in any one (1) day, up to ~~35~~ **seventeen (17)** bushels of conch per vessel per calendar day. ~~(RIMFC REGULATION) (Penalty—Part 3.3, RIGL§ 20-3-3)~~

**Option #2 – 20% reduction**

**4.35.1-2 Commercial Possession Limit:** A holder of any commercial fishing license issued by the State of Rhode Island authorized for the taking of conch may take and/or possess, in any one (1) day, up to ~~35~~ **fourteen (14)** bushels of conch per vessel per calendar day. ~~(RIMFC REGULATION) (Penalty—Part 3.3, RIGL§ 20-3-3)~~

## 4. Commercial Conch Quota – Annual Catch Limit

### Option #1:

4.35.1-4 Commercial Conch Fishery Quota – Annual Catch Limit (ACL) – The Division of Fish and Wildlife shall set an annual catch limit (ACL) for the commercial conch fishery. If the ACL is reached prior to December 31, the commercial conch fishery shall be closed for the remainder of the calendar year and shall open again on January 1<sup>st</sup> of the following year.

~~4.35.2 Reporting Requirements: Dealers must comply with the reporting requirements as set forth in Section 19.14 Dealer Electronic Reporting Requirements, of the RI Marine Fisheries (RIMF) Regulations. (RIMF REGULATION) (Penalty – Part 3.3, Part 19.14.5 (RIGL §20-1-16).~~

~~4.35.3 Sales to out of State Dealers: Out of State Dealers operating within the State of Rhode Island are required to obtain a RI Seafood Dealer License and must comply with the reporting requirements as set forth in Section 19.14 Dealer Electronic Reporting Requirements, of the RI Marine Fisheries (RIMF) Regulations (RIMF REGULATION) (Penalty – Part 3.3 (RIGL §20-3-3, RIGL §20-1-16).~~

4.35.42 Recreational Taking of Conch (Channeled Whelk – *Busycotypus canaliculatus* and Knobbed Whelk – *Busycon carica*):

~~4.35.42-1 Recreational Possession Limit: Unless otherwise specified in this section or by the RI Marine Fisheries RIMFR Regulations, the possession limit for the recreational conch fishery shall be 1/2 bushel per person per calendar day, or if a vessel with more than one (1) individual resident onboard is used, a maximum of 1 bushel per vessel per calendar day (RIMF REGULATION) (Penalty – Part 3.3, RIGL §20-1-16).~~

~~4.35.42-2 Recreational Conch Pot Limit: A recreational fisherman may place, set, keep, maintain, supervise, lift, raise, or draw in from any of the waters under the jurisdiction of the State of Rhode Island, or cause to be placed, set, kept, maintained, supervised, lifted, raised, or drawn in or from any of those waters not more than five (5) conch pots or traps at any one time. A non-commercial recreational conch fisherman shall not offer for sale or sell conchs (Penalty– Part 1.16; RIGL §20-1-16).~~

~~4.35.5 Unauthorized Raising of Traps, Pots, and Devices: No person except the Director, enforcement officers, and authorized technical personnel of the Department may unduly disturb, lift, raise, molest, or remove any animal from a pot, trap, or other such device of a person possessing a valid license to take conch, without the written permission of that person (RIGL § 20-4-8; Penalty 20-1-16 – Part 1.16).~~

~~4.35.6 Unauthorized Possession and/or Transfer of Pots and Traps: (a) No person~~

~~except the Director, Division of Law Enforcement officers, and authorized technical personnel of the Department may 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 conchs, 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.~~

~~(b) Every person convicted of violating this section shall be fined not more than one thousand dollars (\$1,000) for each offense, or be imprisoned not exceeding one year, or both, and each pot, trap, car, or other device used in violation of this section shall constitute a separate offense. In addition, if that person is licensed, his or her license shall be revoked for one (1) year. (RIGL §20-1-6)~~

~~**4.35.7 Raising Pots at Night:** No person shall raise or unduly disturb any conch 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. Every person violating this section shall, upon conviction, be fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000), or be imprisoned not exceeding one (1) year, or both. However, in situations of emergency or upon application being made, the owner of the conch pots or traps may be authorized to remove the pots or traps by the Director or the Director's designee during the prohibited hours. All boats, pots or traps, or other equipment used in violation of this section shall be seized and forfeited to the state. (RIGL § 20-1-8 and § 20-1-8.1)~~

~~**4.36 VIOLATIONS FOR NON-COMPLIANCE:** If the DFW and/or the Chief of the Division of Law Enforcement determine that there has been non-compliance with the provisions of these regulations or a permit agreement, the owner and/or operator of the permitted vessel shall be advised of such determination and the specific grounds therefore in writing by delivery of same by certified mail or by personal service upon the owner or operator in compliance with the requirements set out in Rule 4 of the Rhode Island Superior Court Rules of Civil Procedure. The determination shall specifically include notice that an opportunity for an impartial hearing is available before the Administrative Adjudication Division pursuant to R.I. Gen. Laws Chapter 42-17.7 relative to either or both the finding that sufficient evidence exists of non-compliance with the provisions of these regulations or the permit agreement as well as the termination of the permit and or the imposition of a penalty pursuant to RIGL 20-1-16.~~

#### **4.37 PENALTIES**

~~**4.37.1 Judicially imposed penalty for violations:** Unless otherwise specifically provided, the violation of any law or rule or regulation relating to wild animals, wild birds, lobsters and fish, marine, freshwater and anadromous fisheries and shellfisheries shall be a misdemeanor, punishable by a fine of not more than five hundred dollars (\$500) or imprisonment for up to ninety (90) days, or both (RIGL §20-1-16).~~

4.37.2 Additionally, a person may be subject to the imposition of a administrative penalty pursuant to DEM's "Rules and Regulations Governing the Suspension/Revocation of Commercial Marine Fisheries, Shellfish Buyer, Lobster Dealer, Finfish Dealer, and Multi-purpose Dealer, licenses issued pursuant to Title 20 of RIGL "Fish and Wildlife".

#### 4.38 APPEALS

4.38.1 Denial of a license or permit: Persons denied a license or permit may request an appeal as provided by RIGL Chapter 42-17.7 and pursuant to DEM's "Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters"

4.38.2 Enforcement Action: Any person affected by a decision of the Director for an enforcement action pursuant to these regulations may file and appeal in accordance with RIGL Chapter 42-17.7 and DEM's Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters.

#### **Rule 87. EFFECTIVE DATE**

The foregoing rules and regulations "Rhode Island Marine ~~Fisheries Statutes and~~ Regulations, Part IV, Shellfish", after due notice, are hereby adopted and filed with the Secretary of State this ~~20<sup>th</sup> day of November, 2013~~ to become effective 20 days from filing, unless otherwise indicated below, in accordance with the provisions of Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

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Janet L. Coit, Director  
Department of Environmental Management

Notice Given: ~~07/16/2013~~ 02/21/2014  
Public Hearing: ~~08/15/2013~~ 03/25/2014

Filing Date: ~~11/20/2013~~  
Effective date: ~~12/10/2013~~

ERLID# ~~7598~~



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

BUREAU OF NATURAL RESOURCES  
FISH AND WILDLIFE  
&  
LAW ENFORCEMENT



**RHODE ISLAND MARINE FISHERIES  
~~STATUTES AND~~ REGULATIONS**

**Part VII  
~~Minimum Sizes of~~ Finfish/~~Shellfish~~**

**~~January 10, 2014~~**

**ANNOTATED REGULATIONS  
MARCH 25, 2014 PUBLIC HEARING**

**AUTHORITY:** These regulations are adopted pursuant to Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

**\*PUBLIC HEATING ITEM # 8\***

**For general editing of entire regulations: to remove duplicative language; to add and/or correct statutory citations; and to add general provisions regarding possession limit changes, transiting, reporting requirements, penalties and appeals**

~~STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT~~

~~BUREAU OF NATURAL RESOURCES~~

~~FISH AND WILDLIFE  
&  
LAW ENFORCEMENT~~

**~~RHODE ISLAND MARINE FISHERIES  
STATUTES AND REGULATIONS~~**

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~~STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT~~

~~BUREAU OF NATURAL RESOURCES~~

~~FISH AND WILDLIFE &  
LAW ENFORCEMENT~~

~~**RHODE ISLAND MARINE FISHERIES  
STATUTES AND REGULATIONS**~~

**PURPOSE**

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

**AUTHORITY**

These regulations are adopted pursuant to Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

~~**ADMINISTRATIVE FINDINGS**~~

~~These administrative rules and regulations are based upon the need to modify existing regulations in accordance with Chapter 42-35, Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.~~

**APPLICATION**

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

**DEFINITIONS**

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

**SEVERABILITY**

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

**SUPERSEDED RULES AND REGULATIONS**

On the effective date of these rules and regulations, all previous rules and regulations, and any policies regarding the administration and enforcement of Part VII 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.

**R.I. Marine Fisheries ~~Statutes and~~ Regulations**  
**PART VII - ~~MINIMUM SIZES OF~~ FINFISH/SHELLFISH**

7.1 (Repealed 8/2010) Possession limit changes: Any modifications made to the possession limit as set forth in these regulations will be promulgated in the RI Marine Fisheries regulations (RIMFR) Part III.

7.2 (Repealed 8/2010) **Transiting:**

7.2.1 During the closure of a Rhode Island state allocated fishery quota, a federally permitted vessel fishing in the Exclusive Economic Zone may traverse Rhode Island state waters for the purpose of landing that species in another state, provided the vessel is in compliance with their federal permit, and the vessel nets are stowed pursuant to RIMFR Part X.

7.2.2 A federally permitted vessel fishing in the Exclusive Economic Zone may traverse Rhode Island state waters for the purpose of landing a species in Rhode Island, provided that the species in possession do not have a state allocated quota that is currently closed, provided the vessel is in compliance with their federal permit, provided the vessel nets are stowed pursuant to RIMFR Part X, and provided that the owner or operator possesses a valid RI Landing License pursuant to DEM's "Commercial and Recreational Saltwater Fishing Licensing Regulations".

7.2.3 A vessel in possession of a managed species caught in an open area of state waters may transit a closed portion of RI state waters in possession of that species for the purpose of landing, provided the operator of the vessel has a valid commercial or recreational fishing license, and if fishing with nets, the nets are stowed pursuant to RIMFR Part X.

7.3 (Repealed 8/2010) **Possession limit compliance aboard vessels:**

7.3.1 - Licensed party/charter vessels: Possession limit compliance aboard licensed party/charter vessels will be determined by dividing the number of fish by the number fishermen onboard the boat.

7.3.2 - Multiple licensed recreational fishermen fishing from a single vessel: Possession limit compliance aboard vessels with multiple licensed fishermen will be determined by dividing the number of fish by the number of licensed fishermen on board said vessel, except for tautog, which has a maximum possession limit per vessel.

7.4 (Repealed 8/2010) **Net obstruction or constriction: A fishing vessel subject to minimum mesh size restrictions shall not use any device or material, including, but not limited to, nets, net strengtheners, ropes, lines, or chafing gear, on the**



top of a trawl net, except that one splitting strap and one bull rope (if present), consisting of line and rope no more than 3 in (7.6 cm) in diameter, may be used if such splitting strap and/or bull rope does not constrict, in any manner, the top of the trawl net. “The top of the trawl net” means the 50 percent of the net that (in a hypothetical situation) would not be in contact with the ocean bottom during a tow if the net were laid flat on the ocean floor. For the purpose of this paragraph, head ropes are not considered part of the top of the trawl net.

7.5 (Repealed 1/2014) No one may transfer or attempt to transfer at sea, from one vessel to another, any finfish that are subject to these regulations.

7.6 (Repealed 1/2014) Reporting requirements: Accurately completed copies of the federal Vessel Trip Reports or the state reporting forms prescribed by the DFW shall be kept in numerical order on board the vessel dating back to January 1<sup>st</sup> and furnished upon request. A vessel shall be exempt from this requirement if the captain of said vessel is currently enrolled in an electronic logbook program. Instead, the vessel must have all records dating back to January 1<sup>st</sup> entered electronically. Reference DEM’s “Commercial and Recreational Saltwater Fishing Licensing Regulations”.

### **7.7 Summer Flounder (Fluke):**

No person commercially licensed under RIGL Chapters 20-2.1 or 20-4 shall possess or harvest any summer flounder which is less than fourteen (14) inches total length. A total annual statewide quota for summer flounder will be established. ~~It shall be the most recent allocation established for the State by the Atlantic States Marine Fisheries Commission (ASMFC) and/or the Secretary of the U.S. Dept. of Commerce and published in the Federal Register NOAA Fisheries. The quota may be harvested by gear fishermen licensed in accordance with the provisions of Title 20 of the General Laws and in accordance with all rules and regulations promulgated by DEM. In order to provide for the orderly harvest of the quota, the State’s summer flounder quota will be managed as follows:~~

#### **7.7.1 Summer Flounder Sub-periods and Possession Limits:**

##### **7.7.1-1 Winter Sub-Period: January 1 - April 30 annually:**

Target allocation - 54% of the annual quota ~~established in Section 7.7, unless modified pursuant to this part. It shall be unlawful to possess or land from a~~ **The possession limit per** vessel, ~~in any one per~~ calendar day, ~~more than is~~ **200 pounds,** ~~or the poundage as provided in this part,~~ of summer flounder during the period from January 1 until the Sunday of the first full week in February. ~~The DFW may adjust the possession limit during the sub-period based on the current catch rate and advice from fishing industry representatives and the RIMFC.~~

- a. **Beginning on the Sunday of the first full week in February:** Any vessel which possesses a valid federal Summer flounder Moratorium

~~Permit if harvesting summer flounder from federal waters and possesses a valid state of Rhode Island Summer Flounder Exemption Certificate; or, if harvesting exclusively in State waters, any vessel whose operator possesses a valid license to harvest or land Summer flounder for commercial purposes in Rhode Island and possesses a valid state of RI Summer Flounder Exemption Certificate, may opt to apply to obtain a permit from the Division of Fish and Wildlife in the Aggregate Landing Program for Summer flounder during the Winter sub-period beginning on the Sunday of the first full week in February until the Winter sub-period ends or until the program is terminated as provided in this part. The name of any applicant vessel deemed to satisfy the requirements for enrollment in the program shall be maintained on a list to be kept by DEM Division of Fish and Wildlife and DEM Division of Law Enforcement and is thereby authorized to land summer flounder in any amount between 0 and 2,000 pounds in any calendar week period so long as the total landed by that vessel does not exceed 2,000 pounds in any calendar week period. It shall be unlawful for the cumulative landings to exceed the weekly trip limit. **For vessels permitted in the Winter sub-period of the RI Summer Flounder Aggregate Landing Program (Aggregate Landing Program), the maximum possession limit is 2,000 pounds per vessel per calendar week.** The calendar week period shall begin on Sunday at 12:00 AM and ends on the following Saturday at 11:59 PM. When 90% of the Winter **sub-period** summer flounder quota has been harvested as determined by the ~~Division of Fish and Wildlife (Division)~~ **(DFW)**, the program will terminate and the possession limit per vessel shall be 100 pounds per calendar day. ~~The DFW may adjust the Aggregate Program possession limit during the sub-period based on the current catch rate and advice from fishing industry representatives and the RIMFC. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.~~~~

- b. During the Aggregate Landing Program period as defined **in paragraph a.** above, the ~~commercial~~ possession limit of Summer flounder for vessels that are not permitted in the Aggregate Landing Program, **but which possess a valid RI Summer Flounder Exemption Certificate,** shall be 200 pounds per vessel per calendar day ~~for vessels which possess a valid state of RI Summer Flounder Exemption Certificate.~~ When 90% of the Winter **sub-period** summer flounder quota has been harvested as determined by the ~~Division of Fish and Wildlife (Division)~~ **(DFW)**, the possession limit per vessel shall be 100 pounds per calendar day. ~~It shall be unlawful for any person operating a vessel that is not permitted to participate in the Aggregate Landing Program to land more than the poundage of Summer flounder, as specified above, in Rhode Island during any calendar day commencing at 12:00 AM and ending at 11:59 PM of that same day. Any modifications made by the Division of~~

~~Fish and Wildlife (Division) to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.~~

- c. The possession limit for vessels which do not possess a valid state of RI Summer Flounder Exemption Certificate is 200 pounds per day. When 90% of the Winter sub-period summer flounder quota has been harvested as determined by the ~~Division of Fish and Wildlife (Division)~~ (DFW), the possession limit per vessel shall be 100 pounds per calendar day.
- d. An applicant vessel shall be considered eligible and may apply for a permit to participate in the Aggregate Landing Program ~~for summer flounder~~ by demonstrating to the satisfaction of the ~~Division of Fish and Wildlife~~ (DFW) and the Division of Law Enforcement that it satisfies each of the following criteria:
- (1) The vessel, if harvesting summer flounder from federal waters possesses a valid federal Summer Flounder Moratorium Permit and possesses a valid ~~state of RI Summer Flounder~~ Exemption Certificate; or, if harvesting exclusively in State waters, the vessel's operator possesses a valid license to harvest or land summer flounder for commercial purposes in Rhode Island and possesses a valid ~~state of RI Summer Flounder~~ Exemption Certificate;
  - (2) The vessel shall be operated by a person who possesses a valid multipurpose, principal effort, or landing license issued by the State of Rhode Island to land Summer flounder for commercial purposes; and
  - (3) The vessel shall be operated by a licensed person who has not been assessed a criminal or administrative penalty in the past three years for a violation of Part 7.7 Fluke (Summer Flounder) et al. or more than one marine fisheries violation.
- e. The operator of the applicant vessel shall strictly adhere to each of the following requirements:
- (1) The subject vessel shall be permitted from the date the participant enters the program until the end of the Winter sub-period or until the participant terminates enrollment by providing written notice of the termination from the program, whichever first occurs. Said termination shall take effect no earlier than the Saturday following the receipt of the written notice by the ~~Division~~ (DFW);
  - (2) ~~A vessel may commence the application process for obtaining a permit to participate in the program by downloading the application~~

~~from DEMs website, or may obtain one directly from the Division of Fish and Wildlife (401-423-1927) on Mondays and Tuesdays, from 8:30 AM until 4:00 PM during the entire Winter I sub-period. The application for an Aggregate Landing Program Permit must be filled out in its entirety and returned to the Division of Fish and Wildlife (DFW) (3 Fort Wetherill Road Jamestown, RI 02835). The application will be reviewed by the Division of Fish and Wildlife (DFW) and the Division of Law Enforcement and upon acceptance, a permit will be issued to the applicant vessel to take effect the first Sunday after the permit is received;~~

- (3) No vessel shall possess simultaneously more than one Aggregate Landing Program permit;
- (4) Repealed (12/2010);
- (5) The information recorded by the SAFIS reporting system shall be documented by the Division of Fish and Wildlife (DFW) and the Division of Law Enforcement for use in accounting for the amount of Summer flounder landed by a specific vessel during a calendar week;
- (6) ~~A copy of the Vessel Trip Report logbook or the reporting form provided by the Division of Fish and Wildlife shall be kept in numerical order on board the vessel and furnished upon request, including the name and address of the dealer where the summer flounder were landed. The vessel must have all reports dating back to January 1<sup>st</sup> on board the vessel. A vessel shall be exempt from the foregoing requirements of this sub-section if the vessel is currently enrolled in the e-Trips electronic logbook program, and the vessel has been issued a letter by the Division of Fish and Wildlife confirming its enrollment and compliance with the requirements of the program. This confirming letter shall be kept upon the vessel at all times and furnished upon request by an employee of the Department of Environmental Management.~~

- f. 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 Winter sub-period or the subsequent Winter fishery sub-period. If for any reason a Winter fishery 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 Winter sub-period upon adjudication.

~~Additionally, the owner(s) and operator(s) shall be subject to the imposition of a penalty pursuant to Part 3.3 (RIGL 20-1-16) and the Rules and Regulations~~

~~Governing the Suspension/Revocation of Commercial Marine Fisheries, Shellfish Buyer, Lobster Dealer, Finfish Dealer, and Multi-purpose Dealer, licenses issued pursuant to Title 20 of RIGL "Fish and Wildlife".~~

- g. ~~If the Chief of the Division of Fish and Wildlife and/or the Chief of the Division of Law Enforcement determine that there has been non-compliance with the provisions of these regulations or the permit agreement, the owner and/or operator of the permitted vessel shall be advised of such determination and the specific grounds therefore in writing by delivery of same by certified mail or by personal service upon the owner or operator in compliance with the requirements set out in Rule 4 of the Rhode Island Superior Court Rules of Civil Procedure. The determination shall specifically include notice that an opportunity for an impartial hearing is available before the Administrative Adjudication Division pursuant to RIGL Chapter 42-17.7 relative to either or both the finding that sufficient evidence exists of non-compliance with the provisions of these regulations or the permit agreement as well as the termination of the permit and or the imposition of a penalty pursuant to Part 3.3 (RIGL 20-1-16) as well as the ineligibility to reapply for a permit for the subject vessel for the remainder of the Winter I period.~~
- ~~(1) Any person who feels aggrieved such a determination may seek an adjudicatory hearing in order to contest an enforcement action which alleges violation(s) of these rules and regulations must file said request in writing with the clerk of Administrative Adjudication Division, 235 Promenade Street, Providence, Rhode Island 02908 within twenty (20) calendar days of receipt of the contested agency enforcement action.~~
- ~~(2) Any person who seeks an adjudicatory hearing relative to a determination to deny an applicant vessel a permit in the Aggregate Landing Program for summer flounder must file said request in writing with the clerk of Administrative Adjudication Division, 235 Promenade Street, Providence, Rhode Island 02908 within thirty (30) calendar days of receipt of the contested agency action.~~
- ~~(3) The written request for hearing pursuant to Rule 8(a) or 8(b) must be received by with the clerk of Administrative Adjudication Division, 235 Promenade Street, Providence, Rhode Island 02908 with the time period indicated.~~
- h. Any applicant who is permitted for the Winter **sub-period for the Landing** Program as set forth above will not be allowed to participate in the Summer **sub-period** aggregate landing program within the same year.

~~7.7.1-1 Repealed (12/2010)~~

7.7.1-2 Summer Sub-Period: May 1 - September 15 annually:

Target allocation – 35% of the annual quota ~~established in Section 7.7, unless modified pursuant to this part.~~ The possession limit per vessel ~~will be~~ **is** 100 pounds per calendar day **between May 1 and May 31.** ~~Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.~~

- a. **Beginning June 1:** ~~Any vessel which possesses a valid federal Summer Flounder Moratorium Permit if harvesting Summer flounder from federal waters and possesses a valid state of RI Summer Flounder Exemption Certificate; or, if harvesting exclusively in State waters, any vessel whose operator possesses a valid license to harvest or land summer flounder for commercial purposes in Rhode Island and possesses a valid state of RI Summer Flounder Exemption Certificate, may opt to apply to obtain a permit from the Division of Fish and Wildlife for the Aggregate Landing Program for Summer flounder during the Summer sub-period until the program is terminated as provided in this part. The name of any applicant vessel deemed to satisfy the requirements for enrollment in the program shall be maintained on a list to be kept by DEM Division of Fish and Wildlife and DEM Division of Law Enforcement and is thereby authorized to land Summer flounder in any amount between 0 and 700 pounds in any calendar week period so long as the total landed by that vessel does not exceed 700 pounds in any calendar week period. It shall be unlawful for the cumulative landings to exceed the weekly trip limit. **For vessels permitted in the Summer sub-period of the Aggregate Landing Program, the maximum possession limit is 700 pounds per vessel per week.** The calendar week period shall begin on Sunday at 12:00 AM and ends on the following Saturday at 11:59 PM. When 80% of the Summer sub-period ~~summer flounder~~ quota has been harvested as determined by the ~~Division of Fish and Wildlife (Division)~~ **(DFW)** the program will terminate and the possession limit per vessel shall be 100 pounds per calendar day. ~~The DFW may adjust the Aggregate Program possession limit during the sub-period based on the current catch rate and advice from fishing industry representatives and the RIMFC. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.~~~~
- b. **During the Aggregate Landing Program period as defined in paragraph a. above,** The ~~commercial~~ possession limit of Summer flounder for vessels that are not permitted in the Aggregate Landing Program **but which possess a valid RI Summer Flounder Exemption Certificate,** shall be 100 pounds per calendar day. ~~It shall be unlawful for any person operating a vessel that is not permitted to participate in the summer Aggregate Landing Program to land more than the poundage of summer flounder, as specified above, in Rhode Island during any calendar day commencing at 12:00 AM and ending at 11:59~~

~~PM of that same day. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.~~

- c. The possession limit for vessels which do not possess a valid RI Summer Flounder Exemption Certificate is 100 pounds per day.
- d. An applicant vessel shall be considered eligible and may apply for a permit to participate in the summer Aggregate Landing Program ~~for summer flounder~~ by demonstrating to the satisfaction of the ~~Division of Fish and Wildlife (DFW)~~ and the Division of Law Enforcement that it satisfies each of the following criteria:
- (1) The vessel if harvesting summer flounder from federal waters possesses a valid federal summer flounder moratorium permit and possesses a valid ~~state of RI Summer Flounder~~ Exemption Certificate, or, if harvesting exclusively in State waters, the vessel's operator possesses a valid license to harvest or land summer flounder for commercial purposes in Rhode Island and possesses a valid ~~state of RI Summer Flounder~~ Exemption Certificate;
  - (2) The vessel shall be operated by a person who possesses a valid multipurpose, principal effort, or landing license issued by the State of Rhode Island to land summer flounder for commercial purposes; and
  - (3) The vessel shall be operated by a licensed person who has not been assessed a criminal or administrative penalty in the past year for a violation of Part 7.7 Fluke (Summer Flounder) et al. or more than one marine fisheries violation.
- e. The operator of the applicant vessel shall strictly adhere to each of the following requirements:
- (1) The subject vessel shall be permitted from the date the participant enters the program until the end of the Summer sub-period or until the participant terminates enrollment by providing written notice of the termination from the program, whichever first occurs. Said termination shall take effect no earlier than the Sunday following the receipt of the written notice by the ~~Division~~ DFW;
  - (2) ~~A vessel may commence the application process for obtaining a permit to participate in the program by downloading the application from DEMs website, or may obtain one directly from the Division of Fish and Wildlife (401-423-1927) on Mondays and Tuesdays, from 8:30 AM until 4:00 PM during the entire Summer sub-period.~~ The



application **for an Aggregate Landing Program permit** must be filled out in its entirety and returned to the Division of Fish and Wildlife (3 Fort Wetherill Road Jamestown, RI 02835). The application will be reviewed by the ~~Division of Fish and Wildlife (DFW)~~ and the Division of Law Enforcement and upon acceptance, a permit will be issued to the applicant vessel to take effect the first Sunday after the permit is received;

- (3) No vessel shall possess simultaneously more than one Aggregate Landing Program permit;
  - (4) Repealed (12/2010);
  - (5) The information recorded by the SAFIS reporting system shall be documented by the ~~Division of Fish and Wildlife (DFW)~~ and the Division of Law Enforcement for use in accounting for the amount of summer flounder landed by a specific vessel during a calendar week;
  - (6) ~~A copy of the Vessel Trip Report logbook or the reporting form provided by the Division of Fish and Wildlife shall be kept in numerical order on board the vessel and furnished upon request, including the name and address of the dealer where the summer flounder were landed. The vessel must have all reports dating back to January 1<sup>st</sup> on board the vessel. A vessel shall be exempt from the foregoing requirements of this sub-section if the vessel is currently enrolled in the e-Trips electronic logbook program, and the vessel has been issued a letter by the Division of Fish and Wildlife confirming its enrollment and compliance with the requirements of the program. This confirming letter shall be kept upon the vessel at all times and furnished upon request by an employee of the Department of Environmental Management.~~
- f. 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 the **remainder of the Summer sub-period or** subsequent Summer sub-period fishery. If for any reason a Summer sub-period fishery 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 Summer sub-period upon adjudication.

~~Additionally, the owner(s) and operator(s) shall be subject to the imposition of a penalty pursuant to Part 3.3 (RIGL 20-1-16) and the Rules and Regulations Governing the Suspension/Revocation of Commercial Marine Fisheries, Shellfish Buyer, Lobster Dealer, Finfish~~



~~Dealer, and Multi-purpose Dealer, licenses issued pursuant to Title 20 of RIGL "Fish and Wildlife".~~

- g. ~~If the Chief of the Division of Fish and Wildlife and/or the Chief of the Division of Law Enforcement determine that there has been non-compliance with the provisions of these regulations or the permit agreement, the owner and/or operator of the permitted vessel shall be advised of such determination and the specific grounds therefore in writing by delivery of same by certified mail or by personal service upon the owner or operator in compliance with the requirements set out in Rule 4 of the Rhode Island Superior Court Rules of Civil Procedure. The determination shall specifically include notice that an opportunity for an impartial hearing is available before the Administrative Adjudication Division pursuant to R.I. Gen. Laws Chapter 42-17.7 relative to either or both the finding that sufficient evidence exists of non-compliance with the provisions of these regulations or the permit agreement as well as the termination of the permit and or the imposition of a penalty pursuant to Part 3.3 (RIGL 20-1-16) as well as the ineligibility to reapply for a permit for the subject vessel for the remainder of the Summer sub-period.~~
- (1) ~~Any person who feels aggrieved such a determination may seek an adjudicatory hearing in order to contest an enforcement action which alleges violation(s) of these rules and regulations must file said request in writing with the clerk of Administrative Adjudication Division, 235 Promenade Street, Providence, Rhode Island 02908 within twenty (20) calendar days of receipt of the contested agency enforcement action.~~
- (2) ~~Any person who seeks an adjudicatory hearing relative to a determination to deny an applicant vessel a permit in the Aggregate Landing Program for summer flounder must file said request in writing with the clerk of Administrative Adjudication Division, 235 Promenade Street, Providence, Rhode Island 02908 within thirty (30) calendar days of receipt of the contested agency action.~~
- (3) ~~The written request for hearing pursuant to Rule 8(a) or 8(b) must be received by with the clerk of Administrative Adjudication Division, 235 Promenade Street, Providence, Rhode Island 02908 with the time period indicated.~~
- h. Any applicant who is permitted for the Winter **sub-period for the Aggregate Landing** Program as set forth above will not be allowed to participate in the Summer **sub-period** aggregate landing program within the same year.

7.7.1-3 Fall Sub-Period: September 16 - December 31 annually:

Target allocation: 11% of the annual quota ~~established in Section 7.7, unless modified pursuant to this part.~~ The possession limit per vessel ~~will be~~ is 200 pounds per calendar day. ~~Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.~~

7.7.1-4: Any unused portion of the quota from a sub-period will be equally distributed to the allocations of the remaining sub-periods. The over-harvest of a sub-period allocation will be deducted from the allocations of the remaining sub-periods. Annually, the target allocations specified in sections 7.7.1-1 through 7.7.1- 4 shall be adjusted by the DFW to charge over-harvest of a sub-period allocation during a given year to the same sub-period of the next following year.

7.7.2 Summer Flounder Trip Limits (possession limit):

7.7.2-1: Repealed (5/11/01)

7.7.2-2: ~~The possession limit may vary from the amount specified in sections 7.7.1-1 through 7.7.1- 4. Fish and Wildlife DFW,~~ after discussions with fishing industry representatives, will determine, based upon the period of time remaining in the quota period and the current catch rate, whether the quota will be reached prior to the end of the sub-period. Having determined the catch rate and time remaining in the sub-period, ~~Fish and Wildlife DFW~~ will decide whether the possession limit should be decreased or increased. ~~Fish and Wildlife will file a notice with the Secretary of State's Office if the possession limit is changed, and electronically notify the public utilizing the marine fisheries informational Listserve.~~

7.7.3 Summer Flounder Mesh Regulations: Otter trawlers that land or possess 100 pounds (45.4 kg) or more of Summer flounder from May 1 through October 31; or 200 pounds (90.8 kg) 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 5.5 inch (14.0 cm) diamond, or 6 inch (15.2 cm) square mesh applied throughout the body, extension(s) and codend portion of the net.

**\*PUBLIC HEATING ITEM # 1\***  
**Recreational Summer Flounder**

**Option 1 - Status Quo:**

7.7.4 Summer Flounder Recreational Regulations:

7.7.4-1 Size and Possession: No person fishing recreationally shall possess a

summer flounder less than eighteen inches (18") total length, and no person fishing recreationally shall possess, per calendar day, more than eight (8) summer flounder whether caught within the jurisdiction of this state or otherwise. ~~Compliance with the possession limit aboard vessels will be determined by dividing the number of fish on a vessel by the number of recreational fishermen onboard said vessel.~~

7.7.4-2 Season: The recreational season for Summer flounder in Rhode Island waters is open from May 1 through December 31.

**Option 2 – change minimum size and season:**

**7.7.4 Summer Flounder Recreational Regulations:**

7.7.4-1 Size and Possession: No person fishing recreationally shall possess a summer flounder less than ~~eighteen~~ **seventeen** inches ~~(18")~~ **(17")** total length, and no person fishing recreationally shall possess, per calendar day, more than ~~eight (8)~~ **five (5)** summer flounder whether caught within the jurisdiction of this state or otherwise. ~~Compliance with the possession limit aboard vessels will be determined by dividing the number of fish on a vessel by the number of recreational fishermen onboard said vessel.~~

7.7.4-2 Season: The recreational season for Summer flounder in Rhode Island waters is open from May ~~1~~ **22** through ~~December 31~~ **September 30**.

**Option 3 – change minimum size and season:**

**7.7.4 Summer Flounder Recreational Regulations:**

7.7.4-1 Size and Possession: No person fishing recreationally shall possess a summer flounder less than ~~eighteen~~ **seventeen** inches ~~(18")~~ **(17")** total length, and no person fishing recreationally shall possess, per calendar day, more than eight (8) summer flounder whether caught within the jurisdiction of this state or otherwise. ~~Compliance with the possession limit aboard vessels will be determined by dividing the number of fish on a vessel by the number of recreational fishermen onboard said vessel.~~

7.7.4-2 Season: The recreational season for Summer flounder in Rhode Island waters is open from May ~~1~~ **22** through ~~December 31~~ **September 30**.

**Option 4 - change minimum size and season:**

**7.7.4 Summer Flounder Recreational Regulations:**

7.7.4-1 Size and Possession: No person fishing recreationally shall possess a summer flounder less than ~~eighteen~~ **sixteen and one half** inches ~~(18")~~ **(16.5")**

total length, and no person fishing recreationally shall possess, per calendar day, more than ~~eight (8)~~ **five (5)** summer flounder whether caught within the jurisdiction of this state or otherwise. ~~Compliance with the possession limit aboard vessels will be determined by dividing the number of fish on a vessel by the number of recreational fishermen onboard said vessel.~~

7.7.4-2 Season: The recreational season for Summer flounder in Rhode Island waters is open from May ~~4~~ **22** through ~~December 31~~ **September 30**.

#### **Option 5 - change minimum size and season:**

##### 7.7.4 Summer Flounder Recreational Regulations:

7.7.4-1 Size and Possession: No person fishing recreationally shall possess a summer flounder less than ~~eighteen~~ **sixteen and one half** inches (~~18"~~) **(16.5")** total length, and no person fishing recreationally shall possess, per calendar day, more than ~~eight (8)~~ **three (3)** summer flounder whether caught within the jurisdiction of this state or otherwise. ~~Compliance with the possession limit aboard vessels will be determined by dividing the number of fish on a vessel by the number of recreational fishermen onboard said vessel.~~

7.7.4-2 Season: The recreational season for Summer flounder in Rhode Island waters is open from May ~~4~~ **22** through ~~December 31~~ **September 30**.

#### **Option 6 – “Fish for the Future” proposal:**

**The RIDEM seeks input on the allowance of a small scale management program for a portion of the RI charter boat fleet which would allocate a 2% portion of the 2014 RI recreational harvest limit for fluke to a group of charter vessels. The group of vessels will opt in to a contract to track and report their harvest to the RIDFW and will be obligated to cease fishing for summer flounder when their allocation is exhausted. A full proposal can be found at: <http://www.dem.ri.gov/programs/bnatres/fishwild/pdf/sfl022014p.pdf>**

##### 7.7.5 Summer Flounder Dealer/Shipping/Transfer/Reporting Regulations/Penalty:

7.7.5-1 Prohibition on the transfer of Summer flounder: No Summer flounder (*Paralichthys dentatus*), may be purchased, bartered, or sold within the State of Rhode Island unless marked, processed, shipped, labeled, and handled in accordance with the following rules:

- a. ~~All persons are prohibited from transferring or attempting to transfer at sea summer flounder from one vessel to another vessel, and~~ the licensed person in charge of the vessel may only transfer summer flounder to dealers who possess a valid Rhode Island Dealer's License;
- b. No licensed person in charge of the vessel may land summer flounder after

8:00 PM or prior to 6:00 AM. The legal hours for landing summer flounder are from 6:00 AM to 8:00 PM only;

- c. Repealed 01/01/09;
- d. All summer flounder must be weighed prior to the removal of the summer flounder from the dealer's premises or from the point of transfer.
- e. The weight scales must be certified in accordance with Rhode Island law RIGL, Chapter 47-1;
- f. All summer flounder may only be shipped out of state in standard 60 or 100 pound cartons (containers) unless specific prior written authorization is requested and received from the Rhode Island Office of Law Enforcement, 235 Promenade Street, Providence, Rhode Island 02908;
- g. ~~Dealers must comply with the reporting requirements as set forth in section 19.14 of the RI Marine Fisheries Regulations.~~

#### 7.7.5-2 License Suspension:

- a. ~~In addition to the penalty prescribed in RIGL 20-1-16, the license of any person who refuses or neglects to make the report required herein will be suspended by the Director. The license of any person who knowingly or willfully makes a false report or violates any provision of these regulations may be suspended for a period not to exceed one year.~~
- b. ~~The Director has determined that non-compliance with these regulations seriously threatens the proper management of the available stock of summer flounder and, thus, the general welfare as represented that it is appropriate to suspend the license of alleged violators pending formal suspension or revocation hearing arising from the alleged violation.~~
- c. ~~No person shall take, sell, or possess within this state any summer flounder which have not been taken in compliance with the provisions of this regulation. Any summer flounder which the Director shall have reasonable cause to believe have not been taken in compliance with the provisions of RIGL Title 20 and the regulations adopted in accordance therewith shall be confiscated and sold by the DEM. (RIMFC REGULATION) [Penalty Part 3.3; (RIGL 20-1-16)]~~

7.7.6 Moratorium on the Landing of Summer Flounder: No person shall possess, land, sell, or offer for sale in excess of two hundred (200) pounds of summer flounder *Paralichthys dentatus*, in any calendar day, in the State of Rhode Island or the jurisdictional waters of the state without a **valid summer flounder** Exemption Certificate issued by **Fish and Wildlife DFW** and a valid Rhode Island commercial fishing license. ~~Application for an summer flounder Exemption permit must be received by Fish and Wildlife prior to January 1, 1997.~~

7.7.7 Rhode Island Summer Flounder Exemption Certificate: **Fish and Wildlife DFW** will issue a **RI Summer Flounder** Exemption Certificate (**Exemption**)

**Certificate)** for a vessel if the owner of the vessel or his/her representative applies to ~~Fish and Wildlife~~ **DFW** prior to January 1, 1997, for the issuance of such a certificate and demonstrates to the satisfaction of the Director that:

7.7.7-1: the operator of the vessel possesses a valid Rhode Island commercial fishing license to land summer flounder up to the amount permitted by the ~~se~~ ~~Rhode Island Marine Fisheries Council~~ regulations; and

7.7.7-2: 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; or
- 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; or
- 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; or
- 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.

7.7.8 Application for a **RI Summer Flounder Exemption Certificate of Exemption:**

A vessel is eligible to receive an ~~Rhode Island Summer Flounder~~ Exemption Certificate if it meets the following conditions. The applicant applying for an exemption certificate shall:

7.7.8-1: provide ~~Fish and Wildlife~~ **DFW** with 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; and

7.7.8-2: submit a completed notarized application for said certificate; and

7.7.8-3: submit proof that the vessel meets the requirements set out in section 7.7.7, and

7.7.8-4: provide a completed notarized waiver authorizing the Department to access records verifying that this vessel and operator meet the criteria set forth in section 7.7.7; and

7.7.8-5: provide ~~Fish and Wildlife~~ **DFW** with a copy of the vessel's U.S. Coast Guard documentation papers or state issued boat registration certificate proving ownership of the vessel.

7.7.9 Submission of Application: Application for an Exemption Certificate shall be mailed or submitted prior to January 1, 1997 to the **DFW** office ~~of Fish and Wildlife~~ at: ~~Oliver Stedman Government Center, 4808 Tower Hill Rd., Wakefield, RI 02879,~~ **Attention: Fluke Exemption 3 Fort Wetherill Road, Jamestown, RI 02835.**

7.7.10 Transfer of ~~Rhode Island Summer Flounder an Exemption Certificate of Exemption~~: An **Exemption Certificate of Exemption** issued by the ~~Division~~ **DFW** 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 of Exemption** 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 of Exemption** 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 a ~~Certificate of Exemption~~ **Certificate** issued by the ~~Division~~ **DFW** must apply to the ~~Division~~ **DFW** for approval and provide to the satisfaction of the ~~Division of Fish and Wildlife~~ **DFW** proof that the applicant vessel is replacing a



vessel which has been removed from the Summer Flounder Exemption Program ~~(as described in section 7.7.6)~~

- (1) The vessel owner must supply credible written evidence verifying that the transferor/seller is retaining the vessel's **Exemption** Certificate of **Exemption** for purposes of replacing the vessel. If a vessel owner elects to sever the Certificate of Exemption from a vessel, the **Exemption** Certificate of **Exemption** 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.
  - (2) Vessel permits (state and federal), **Exemption** Certificates of **Exemption**, and fishing history cannot be split.
  - (3) **An Exemption** Certificate of **Exemption** may not be combined to create larger replacement vessels.
  - (4) The replacement vessel may not exceed a 10 percent increase in length overall (LOA), a 10 percent increase in gross registered tonnage (GRT) or net tonnage (NT), or a 20 percent 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 of **Exemption**.
  - (6) A vessel may be upgraded, whether through refitting or replacement, and be eligible to retain an **Exemption** Certificate of **Exemption**, only if the upgrade complies with the following:
    - i. 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.
    - ii. 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.
- (c) **Exemption** Certificates of **Exemption** or permits 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.
- ~~(RIMF REGULATION) [Penalty—Part 3.3; (RIGL 20-1-16)]~~

7.7.11 Research Set Aside: Repealed (12/12/2011).

7.7.12 Control Date: A control date of December 31, 2010, is established for the commercial Summer flounder fishery in Rhode Island.

## **7.8 Winter Flounder (Blackback):**

### 7.8.1 Winter Flounder – Recreational Regulations:

7.8.1-1 Legal Minimum Size: No person fishing recreationally shall take, possess, sell, possess for sale, or offer for sale any winter flounder measuring less than twelve (12) inches total length whether caught within the jurisdiction of this State or otherwise.

### **\*PUBLIC HEATING ITEM # 2\*** **Recreational Winter Flounder**

#### **Option 1 – change season:**

7.8.1-2 Recreational Seasons, Possession Limits, and Closed Areas: ~~(a) Beginning on the fourth Saturday in April and continuing for 30 days, and beginning on the last Saturday in September and continuing for 30 days,~~ **Between March 1 and December 31 of each year,** fishermen may take and possess not more than two (2) winter flounder per person per calendar day in Rhode Island waters, except in Narragansett Bay north of the Colregs line, and in Potter Pond, Point Judith Pond and the Harbor of Refuge, where the harvest or possession of winter flounder is prohibited.

7.8.2 Winter Flounder - Mesh Regulations/Commercial Fishing Gear : The minimum mesh size for bottom trawl nets is six (6) inch diamond mesh or six and one half (6.5) inch square mesh applied throughout the body and extension of the net, or any combination thereof, and six and one half (6.5) inch diamond mesh or six and one half (6.5) inch square mesh applied to the codend of the bottom trawl nets as defined in paragraphs (a) and (b) of this section. The minimum mesh size for gill nets is six and one half (6.5) inch diamond mesh or six and one half (6.5) inch 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 45 ft in length overall, a diamond mesh codend is defined as the first 50 meshes counting from the terminus of the net, and a square mesh codend is defined as the first 100 bars counting from the terminus of the net.

(b) For vessels 45 ft or less in length overall, a diamond mesh codend is defined as the first 25 meshes counting from the terminus of the net, and a square mesh codend is defined as the first 50 bars counting from the terminus of the net.

~~7.8.2-1 Net obstruction or constriction: A fishing vessel subject to minimum mesh size restrictions shall not use any device or material, including, but not limited to, nets, net strengtheners, ropes, lines, or chafing gear, on the top of a trawl net, except that one splitting strap and one bull rope (if present), consisting of line and rope no more than 3 in (7.6 cm) in diameter, may be used if such splitting strap and/or bull rope does not constrict, in any manner, the top of the trawl net. "The top of the trawl net" means the 50 percent of the net that (in a hypothetical situation) would not be in contact with the ocean bottom during a tow if the net were laid flat on the ocean floor. For the purpose of this paragraph, head ropes are not considered part of the top of the trawl net.~~

### 7.8.3 Winter Flounder – Commercial Regulations:

7.8.3-1 Legal Minimum Size: No person fishing commercially shall take, possess, sell, possess for sale, or offer for sale any winter flounder measuring less than twelve (12) inches total length whether caught within the jurisdiction of this State or otherwise.

### 7.8.3-2 Commercial Seasons, Possession Limits, and Closed Areas:

(a) January 1 – December 31: It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than 50 pounds of winter flounder.

(b) Harvest or possession of winter flounder in Narragansett Bay north of the Colregs line, and in Potter Pond, Point Judith Pond and the Harbor of Refuge, is prohibited.

(c) It is illegal for a trawl vessel to initiate trawling in Narragansett Bay north of the Colregs line and haul back south of the Colregs line and possess winter flounder.

(d) Transit Provisions:

~~(1) Vessels fishing in open portions of state waters may traverse closed portions of Rhode Island waters for the purpose of landing winter flounder provided they are not fishing and nets are stowed in accordance with Section 10.10 of these regulations.~~

~~(2) Vessels fishing in federal waters may traverse portions of Rhode Island waters while in possession of more than the Rhode Island winter flounder possession limit for the purpose of landing provided the vessel possesses a valid federal permit allowing commercial harvest of winter flounder from federal waters for the amount of winter flounder onboard the vessel and they are not fishing and nets are stowed in accordance with Section 10.10 of these regulations.~~

~~(e) Unless otherwise specified in this section, any modifications made by the Division of Fish and Wildlife to the commercial possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.~~

~~7.8.3 3 Recreational Transit Provisions—Vessels fishing in Party/Charter mode in federal waters may traverse portions of Rhode Island waters while in possession of more than the Rhode Island winter flounder possession limit to return to port provided the vessel possesses a valid federal permit allowing recreational harvest of winter flounder from federal waters for the amount of winter flounder onboard the vessel and they are not fishing and fishing gear is stowed.~~

7.8.4: 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. ~~(RIMFC REGULATION) [Penalty—Part 3.3: (RIGL 20-1-16)]~~

**7.9 Tautog (Blackfish):** No person shall take, possess, sell, possess for sale, or offer for sale any tautog measuring less than sixteen (16) inches total length whether caught within the jurisdiction of this State or otherwise.

**\*PUBLIC HEATING ITEM # 3\***  
**Recreational Tautog**

**Option 1 - Status Quo:**

**7.9.1-1 Recreational:**

- No person may possess more than three (3) tautog per person per calendar day from April 15 through May 31;
- The tautog fishery will be closed from June 1 through July 31;
- No person may possess more than three (3) tautog per person per

calendar day from August 1 through the Friday before the third Saturday in October;

- No person may possess more than six (6) tautog per person per calendar day from the third Saturday in October through December 15;
- While the fishery is open the possession limit shall be per person per calendar day, as stated above, or a maximum of ten (10) fish per vessel per calendar day, whichever amount is less.

#### 7.9.1-2 Licensed Party and Charter Boats:

- No licensed party/charter boat may possess more than three (3) tautog per person per calendar day from April 15 through May 31.
- The tautog fishery will be closed from June 1 through July 31.
- No licensed party/charter boat may possess more than three (3) tautog per person per calendar day from August 1 through the Friday before the third Saturday in October.
- No licensed party/charter boat may possess more than six (6) tautog per person per calendar day from the third Saturday in October through December 15.
- ~~Compliance aboard licensed party/charter boats will be determined by dividing the number of fish onboard the boat by the number of recreational fishermen onboard the boat.~~ Licensed party/charter boats are not subject to the ten (10) fish per vessel per calendar day restriction that applies to the rest of the recreational fishery. Any licensed party/charter boat participating in the tautog fishery must report each trip targeting tautog into the eREC logbook (the electronic logbook hosted by ACCSP).

### Option 2 – Earlier start date:

#### 7.9.1-4 Recreational:

- No person may possess more than three (3) tautog per person per calendar day from April ~~15~~ **1** through May 31;
- The tautog fishery will be closed from June 1 through July 31;
- No person may possess more than three (3) tautog per person per calendar day from August 1 through the Friday before the third Saturday in October;
- No person may possess more than six (6) tautog per person per calendar day from the third Saturday in October through December 15;
- While the fishery is open the possession limit shall be per person per calendar day, as stated above, or a maximum of ten (10) fish per vessel per calendar day, whichever amount is less.

#### 7.9.1-2 Licensed Party and Charter Boats:

- No licensed party/charter boat may possess more than three (3) tautog per person per calendar day from April ~~15~~ through May 31.
- The tautog fishery will be closed from June 1 through July 31.
- No licensed party/charter boat may possess more than three (3) tautog

per person per calendar day from August 1 through the Friday before the third Saturday in October.

- No licensed party/charter boat may possess more than six (6) tautog per person per calendar day from the third Saturday in October through December 15.

- ~~Compliance aboard licensed party/charter boats will be determined by dividing the number of fish onboard the boat by the number of recreational fishermen onboard the boat.~~ Licensed party/charter boats are not subject to the ten (10) fish per vessel per calendar day restriction that applies to the rest of the recreational fishery. Any licensed party/charter boat participating in the tautog fishery must report each trip targeting tautog into the eREC logbook (the electronic logbook hosted by ACCSP).

**\*PUBLIC HEATING ITEM # 4\***  
**Commercial Tautog**

**Option 1 - Status Quo:**

**7.9.23 Commercial:** The total allowable harvest of tautog will be established annually, and will be that amount allocated to the State of Rhode Island by the Regional Fishery Management Council and/or the ASMFC. ~~The quota may be harvested only by permitted gear types and licensed fishermen in accordance with all rules and regulations promulgated by the DEM and RIGL Title 20.~~ The quota shall only be available during the following seasons:

(a) April 15 – May 31: 1/3 of the annual quota established in this part shall be available from April 15 through May 31, unless modified pursuant to this part. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than ten (10) tautog during this period. The **aggregate total** number of tautog on any vessel, regardless of how many licensed fishermen are onboard, may not exceed the ten (10) fish limit per vessel per calendar day.

(b) August 1 – September 15: 1/3 of the annual quota established in this part shall be available from August 1 – September 15, unless modified pursuant to this part. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than ten (10) tautog during this period. The **aggregate total** number of tautog on any vessel, regardless of how many licensed fishermen are onboard, may not exceed the ten (10) fish limit per vessel per calendar day.

(c) October 15 – December 31: 1/3 of the annual quota established in this part shall be available from October 15 – December 31, unless modified pursuant to this part. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than ten (10) tautog during this period. The **aggregate total** number of tautog on any vessel, regardless

of how many licensed fishermen are onboard, may not exceed the ten (10) fish limit per vessel per calendar day.

(d) Within each period the allocation may be harvested until it is exhausted. Any unused quota not harvested during a sub-period will be carried forward into the next period, unless an overage has occurred in a previous sub-period during the same calendar year, and any over-harvest will be deducted equally from all periods in the next calendar year. ~~No licensed commercial fishermen may possess more than ten (10) tautog in any calendar day. During a closure of the R.I. tautog fishery a federally permitted vessel fishing in the EEZ, may traverse Rhode Island waters for the purpose of landing tautog in another state, provided their nets are stowed in accordance with Section 10.10 of these regulations.~~

~~7.9.3 Possession Limits for Charter and Party Boats:— Compliance aboard vessels will be determined by dividing the number of fish on board a vessel by the number of recreational fishermen on board said vessel. Said fish shall not be offered for sale. Party and charter boats may obtain a State permit by showing proof of a U.S. Coast Guard License to conduct their fishery within the territorial waters of Rhode Island.~~

~~7.9.4 Reporting requirements: Dealers must comply with the reporting requirements as set forth in section 19.14 of the RI Marine Fisheries Regulations.~~

~~7.9.5 Closure of commercial fisheries managed under a federally mandated quota or allocation system: Any landing of a marine species managed under a quota or allocation system, or the taking or possession of any marine species, may be prohibited by the Director for a specified portion of the calendar year upon the finding by the Director that ninety percent (90%) or more of the annual quota is about to be harvested, and upon submission of a notice of closure to the Office of Secretary of State, and publication of the closure notice in a daily newspaper of statewide circulation. Further, it is the responsibility of the licensed person in charge of a vessel harvesting species regulated in this section to call the DEM hotline for current harvesting and possession regulations. (RIMFC REGULATION) (Penalty—Part 3.3; (RIGL 20-1-16)~~

**7.10 Bluefish - Possession limit for recreational fishermen:** No person shall possess more than fifteen (15) bluefish ~~unless he/she has a permit meeting the requirements of RIGL 20-2-26, 20-2-26.1, 20-2-27, 20-2-28, 20-2-28.1.~~ Compliance onboard vessels will be determined by dividing the number of fish onboard a vessel by the number of recreational fishermen onboard said vessel.

**7.10.1 Bluefish - Commercial Quota:** A total allowable harvest of bluefish will be established annually, and shall be that amount allocated to the State of Rhode Island by the Regional Fishery Management Councils and/or the ASMFC. ~~The quota may be harvested only by permitted gear types and licensed fishermen in~~

~~accordance with all rules and regulations promulgated by the Department.~~ To provide for the orderly harvest of the quota, the Department has established the following sub-period allocations.

7.10.2 Bluefish Commercial Quota - Sub-Periods:

7.10.2-1 Spring sub-period: January 1 through June 30 annually; Quota - 50% of the annual allocation.

7.10.2-2 Summer-Fall Sub Period: July 1 through December 31 annually; Quota - 50% of the annual allocation.

When 50% of any seasonal sub-period quota is reached, ~~Fish and Wildlife~~ **DFW** will determine if a possession limit of between 200 - 10,000 pounds should be established depending upon the time remaining in the quota period and the current catch rate. ~~Fish and Wildlife will file a notice with the Secretary of State's office if a possession limit is established, and will publish a news release announcing the change. The possession limit may be modified by Fish and Wildlife providing such notification is made.~~

~~7.10.3 Bluefish Reporting Requirement—Dealers must comply with the reporting requirements as set forth in section 19.14 of the RI Marine Fisheries Regulations (RIMFC REGULATION) [Penalty—Part 3.3; (RIGL 20-1-16)]~~

**7.11 Scup Regulations—Minimum Size—9" total length (TL):** ~~It is unlawful for any person commercially licensed under RIGL 20-2-27 or RIMFC Part III to land or possess any scup, or parts thereof, that do not meet this size limit. [see Part 10.12 for roller rogs] (RIMFC REGULATION) [Penalty—Part 3.3 (RIGL 20-1-16) (RIGL 20-6-29)]~~

**(a) Minimum size: Nine (9) inches.**

7.11.1 —Scup— Commercial Quota: A total allowable harvest of scup will be established annually, and shall be that amount allocated to the State of Rhode Island by the Regional Fishery Management Councils and/or the ASMFC. ~~The quota may be harvested only by permitted gear types and licensed fishermen in accordance with all rules and regulations promulgated by the Department.~~ To provide for the orderly harvest of the quota, the Department has established the following sub-period allocations:

7.11.2 Scup Commercial Quota – Sub-Periods:

7.11.2-1 Winter I sub-period (January - April):

1) Beginning January 1 **of each year**, the possession and landing limit is 50,000 pounds per vessel per calendar day, decreasing to 1,000 pounds per vessel per calendar day once 80% of the Winter I federal coastwide scup



quota has been harvested as determined by ~~the National Marine Fisheries Service (NMFS)~~ **NOAA Fisheries**. ~~Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3. The fishery will restart on May 1, and will be administered as set forth in this part.~~

7.11.2-1.1 (Repealed 12.2010)

2) Winter II sub-period (November - December): Beginning November 1 of each year, the possession and landing limit is 2,000 pounds per vessel per calendar day, decreasing to 500 pounds per vessel per calendar day once 70% of the period quota ~~is landed~~ **has been harvested as determined by NOAA Fisheries**. ~~Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.~~

7.11.2-2 Summer - Fall sub-period (May - October): A state quota for scup will be established annually for the Summer- Fall sub-period ~~and shall be the most recent amount allocated to the State of Rhode Island~~ by the ASMFC and/or ~~the Secretary of the U.S. Department of Commerce and published in the Federal Register~~ **NOAA Fisheries**. The ~~total~~ **State quota for** scup ~~quota~~ will be divided as follows:

FLOATING FISH TRAPS: Licensed by the state of Rhode Island – Sixty percent (60%) of the Summer-Fall sub-period quota will be allocated to the floating fish trap ~~harvesting~~ sector.

During those years in which the Winter I federal coastwide scup quota allocation is completely exhausted prior to April 15, the floating fish trap quota will be available on April 15. During those years in which the Winter I federal coastwide scup quota allocation is not completely exhausted prior to April 15, the floating fish trap quota will be available on May 1.

Floating Fish Trap Licensees\* **operators permitted pursuant to RIGL Section 20-5-1** will be required to report landings of scup to SAFIS every Monday, Wednesday, and Friday, of every week that the trap is in operation.

7.11.2-2.1: If the Division DFW 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 Division DFW has the authority to move the designated Floating Fish Trap sector allocation in to the general category fishery as set forth in this part. The Division DFW will consult with the Floating Fish Trap Licensees operators or their designee prior to enacting any allocation roll over, and will maintain written correspondence in the form of a letter on file as proof of said consultation.



7.11.2-2.2: If the ~~Division~~ **DFW** estimates that the Floating Fish Trap sector may have a reasonable likelihood of utilizing prior to the end of the **Summer-Fall** sub-period, a portion of its scup allocation that has been transferred to the general category scup fishery pursuant to sub-section 7.11.2-~~23~~.1 above and has not as yet been used, by the general category scup fishery, the ~~Division~~ **DFW** has the authority to move the designated general category Scup fishery quota ~~so received~~ to the Floating Fish Trap sector. ~~The Division will review information recorded by the SAFIS reporting system and consult with the affected sector prior to enacting any quota roll-over.~~ Any quota that was rolled over from the General Category 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 pursuant to ~~sub-section 7.11.2-2.1 above~~ **these regulations**.

If there is non-compliance with the reporting requirements as set forth above, the Floating Fish Trap ~~Licensees\*~~ **operators will be notified and** will default to the program as set forth below:

April 15 – October 31: During those years in which the Winter I federal coastwide scup quota allocation is completely exhausted prior to April 15, the floating fish trap quota will be available on April 15. The possession limit will be 25,000 pounds per floating fish trap ~~licensee\*~~ **licensee\*** per calendar day. Once ninety percent (90%) of the sub-period allocation is projected to be harvested, the possession limit will be 5,000 pounds per fish trap licensee per calendar day until one hundred percent (100%) of the quota has been harvested. ~~Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.~~

May 1 – October 31: During those years in which the Winter I federal coastwide scup quota allocation is not completely exhausted prior to April 15, the floating fish trap quota will be available on May 1. The possession limit will be 25,000 pounds per floating fish ~~trap licensee\*~~ **operator** per calendar day. Once ninety percent (90%) of the sub-period allocation is projected to be harvested, the possession limit will be 5,000 pounds per fish trap licensee per calendar day until one hundred percent (100%) of the quota has been harvested. ~~Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.~~

~~If the Floating Fish Trap Licensees\* are found to be out of compliance with the reporting regulations as set forth above, the Licensees will be notified and a notice will be filed with the Secretary of States Office.~~

“Floating Fish trap licensee operator” – for purposes of this section, fish trap **licensee operator** shall refer to a resident person or resident corporation currently issued a **license permit** pursuant to RIGL §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 **licensee 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 **licensee operator** waives any individual right to possess scup pursuant to a possession limit set out in **these** regulations **Part 7.11.2-2**.

~~Dealers must comply with the reporting requirements as set forth in section 19.14 of the RI Marine Fisheries Regulations~~

General Category scup fishery (gear types other than floating fish traps): Forty percent (40%) of the Summer- Fall period State quota for Scup will be allocated to all gear types except floating fish traps. The quota allocated to the General Category sector will be available during the following sub-periods:

Summer Sub-Period: Two-thirds (2/3) of the General Category State quota for Scup will be available during the Summer sub-period, defined as May 1 through the Saturday before the third Sunday in September. ~~The possession limit will be reduced at the discretion of the Division. The fishery will close once the entire period allocation is projected to be harvested.~~

- a. Beginning May 1: ~~any vessel authorized to land scup for commercial purposes in Rhode Island is authorized to land scup in any amount between 0 and 10,000 pounds in any calendar week period during the Summer sub-period so long as the total landed by that vessel does not exceed 10,000 pounds in any calendar week period. **The possession limit is 10,000 pounds per vessel per calendar week.**~~ The calendar week period shall begin on Sunday at 12:00 AM and ends on the following Saturday at 11:59 PM. When the Summer sub-period State quota for Scup has been harvested as determined by the ~~Division of Fish and Wildlife (Division)~~ **DFW** the fishery will close. The fishery will restart on the third Sunday in September, and will be administered as set forth in this part. ~~The Division may adjust the possession limit during the Summer sub-period based on the current catch rate and advice from fishing industry representatives and the RIMFC. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.~~
- b. ~~The information recorded by the SAFIS reporting system shall be documented by the Division of Fish and Wildlife and the Division of Law Enforcement for use in accounting for the amount of scup landed by a specific vessel during a calendar week.~~
- c. ~~A copy of the Vessel Trip Report logbook or the reporting form provided by~~

~~the Division of Fish and Wildlife shall be kept in numerical order on board the vessel and furnished upon request, including the name and address of the dealer where the scup were landed. The vessel must have all reports dating back to May 1<sup>st</sup> on board the vessel. A vessel shall be exempt from the foregoing requirements of this subsection if the vessel is currently enrolled in the e-Trips electronic logbook program and the vessel has been issued a letter by the Division of Fish and Wildlife confirming its enrollment and compliance with the requirements of the program. This confirming letter shall be kept upon the vessel at all times and furnished upon request by an employee of the Department of Environmental Management.~~

- d. ~~Non-compliance with the provisions of these regulations shall subject both the owner and the operator to revocation of participation in the commercial fisheries for the subsequent Spring sub-period fishery. If for any reason a Summer sub-period fishery 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 Summer sub-period upon adjudication.~~

~~Additionally, the owner(s) and operator(s) shall be subject to the imposition of a penalty pursuant to Part 3.3 (RIGL 20-1-16) and the *Rules and Regulations Governing the Suspension/Revocation of Commercial Marine Fisheries, Shellfish Buyer, Lobster Dealer, Finfish Dealer, and Multi-purpose Dealer*, licenses issued pursuant to Title 20 of RIGL "Fish and Wildlife".~~

- e. ~~If the Chief of the Division of Fish and Wildlife and/or the Chief of the Division of Law Enforcement determine that there has been non-compliance with the provisions of these regulations the owner and/or operator of the vessel shall be advised of such determination and the specific grounds therefore in writing by delivery of same by certified mail or by personal service upon the owner or operator in compliance with the requirements set out in Rule 4 of the Rhode Island Superior Court Rules of Civil Procedure. The determination shall specifically include notice that an opportunity for an impartial hearing is available before the Administrative Adjudication Division pursuant to RIGL Chapter 42-17.7 relative to either or both the finding that sufficient evidence exists of non-compliance with the provisions of these regulations as well as the imposition of a penalty pursuant to Part 3.3 (RIGL 20-1-16).~~

- 1) ~~Any person who feels aggrieved such a determination may seek an adjudicatory hearing in order to contest an enforcement action which alleges violation(s) of these rules and regulations must file said request in writing with the clerk of Administrative Adjudication Division, 235 Promenade Street, Providence, Rhode Island 02908~~

~~within twenty (20) calendar days of receipt of the contested agency enforcement action.~~

- ~~2) Any person who seeks an adjudicatory hearing must file said request in writing with the clerk of Administrative Adjudication Division, 235 Promenade Street, Providence, Rhode Island 02908 within thirty (30) calendar days of receipt of the contested agency action.~~
- ~~3) The written request for hearing pursuant to Rule 8(a) or 8(b) must be received by with the clerk of Administrative Adjudication Division, 235 Promenade Street, Providence, Rhode Island 02908 with the time period indicated.~~

Fall Sub-Period: One-third (1/3) of the General Category quota will be available from the third Sunday in September through October 31. ~~The Division may increase the possession limit if they project the entire quota will not be harvested by the end of the sub-period. The DFW will have the discretion of adjusting trip limits upwards or downwards as necessary.~~

- a. Beginning the third Sunday in September: ~~any vessel authorized to land scup for commercial purposes in Rhode Island is authorized to land scup in any amount between 0 and 10,000 pounds in any calendar week period during the Fall sub-period so long as the total landed by that vessel does not exceed 10,000 pounds in any calendar week period. It shall be unlawful for the cumulative landings to exceed the weekly trip limit. **The possession limit is 10,000 pounds per vessel per calendar week.** The calendar week period shall begin on Sunday at 12:00 AM and ends on the following Saturday at 11:59 PM. When the Fall sub-period scup quota has been harvested as determined by the ~~Division of Fish and Wildlife (Division)~~ **DFW** the fishery will close. The fishery will restart at the beginning of the Winter II fishery sub-period as set forth in this part. ~~The Division may adjust the possession limit during the Fall sub-period based on the current catch rate and advice from fishing industry representatives and the RIMFC. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.~~~~
- b. ~~The information recorded by the SAFIS reporting system shall be documented by the Division of Fish and Wildlife and the Division of Law Enforcement for use in accounting for the amount of scup landed by a specific vessel during a calendar week.~~
- c. ~~A copy of the Vessel Trip Report logbook or the reporting form provided by the Division of Fish and Wildlife shall be kept in numerical order on board the vessel and furnished upon request, including the name and address of~~

~~the dealer where the scup were landed. The vessel must have all reports dating back to May 1<sup>st</sup> on board the vessel. A vessel shall be exempt from the foregoing requirements of this sub-section if the vessel is currently enrolled in the e-Trips electronic logbook program and the vessel has been issued a letter by the Division of Fish and Wildlife confirming its enrollment and compliance with the requirements of the program. This confirming letter shall be kept upon the vessel at all times and furnished upon request by an employee of the Department of Environmental Management.~~

- d. ~~Non-compliance with the provisions of these regulations shall subject both the owner and the operator to revocation of participation in the commercial fisheries for the subsequent Fall sub-period fishery. If for any reason a Fall sub-period fishery 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 Fall sub-period upon adjudication.~~

~~Additionally, the owner(s) and operator(s) shall be subject to the imposition of a penalty pursuant to Part 3.3 (RIGL 20-1-16) and the *Rules and Regulations Governing the Suspension/Revocation of Commercial Marine Fisheries, Shellfish Buyer, Lobster Dealer, Finfish Dealer, and Multi-purpose Dealer*, licenses issued pursuant to Title 20 of RIGL "Fish and Wildlife".~~

- e. ~~If the Chief of the Division of Fish and Wildlife **DFW** and/or the Chief of the Division of Law Enforcement determine that there has been non-compliance with the provisions of these regulations the owner and/or operator of the vessel shall be advised of such determination and the specific grounds therefore in writing by delivery of same by certified mail or by personal service upon the owner or operator in compliance with the requirements set out in Rule 4 of the Rhode Island Superior Court Rules of Civil Procedure. The determination shall specifically include notice that an opportunity for an impartial hearing is available before the Administrative Adjudication Division pursuant to R.I. Gen. Laws Chapter 42-17.7 relative to either or both the finding that sufficient evidence exists of non-compliance with the provisions of these regulations as well as the imposition of a penalty pursuant to Part 3.3 (RIGL 20-1-16).~~

- (1) ~~Any person who feels aggrieved such a determination may seek an adjudicatory hearing in order to contest an enforcement action which alleges violation(s) of these rules and regulations must file said request in writing with the clerk of Administrative Adjudication Division, 235 Promenade Street, Providence, Rhode Island 02908 within twenty (20) calendar days of receipt of the contested agency enforcement action.~~

- (2) ~~Any person who seeks an adjudicatory hearing must file said request~~

~~in writing with the clerk of Administrative Adjudication Division, 235 Promenade Street, Providence, Rhode Island 02908 within thirty (30) calendar days of receipt of the contested agency action.~~

- ~~(3) The written request for hearing pursuant to Rule 8(a) or 8(b) must be received by with the clerk of Administrative Adjudication Division, 235 Promenade Street, Providence, Rhode Island 02908 with the time period indicated.~~

~~7.11.2-3 Possession Limit Adjustments: Fish and Wildlife after discussions with fishing industry representatives, will determine, based upon the period of time remaining in the quota period and the current catch rate, whether the quota will be reached prior to the end of the sub-period. Having determined the catch rate and time remaining in the sub-period, Fish and Wildlife will decide whether the possession limit should be decreased or increased. Fish and Wildlife will file a notice with the Secretary of State's Office if the rate is changed and submit a listserve notice announcing the change.~~

~~7.11.3 Scup Reporting Requirement—Dealers must comply with the reporting requirements as set forth in section 19.14 of the RI Marine Fisheries Regulations~~

### **\*PUBLIC HEATING ITEM # 5\*** **Recreational Scup**

#### **Option 1 - Status Quo:**

##### **7.11.3 Scup – Recreational:**

~~7.11.43-1: No person fishing recreationally shall possess scup less than ten inches (10") total length, and no person fishing recreationally shall possess, per calendar day, more than thirty (30) scup, whether caught within the jurisdiction of this State or otherwise except as provided in section 7.11.4-3. **Compliance with the possession limit aboard vessels will be determined by dividing the number of fish on board a vessel by the number of fishermen on board said vessel.**~~

~~7.11.43-2: The recreational season for scup in Rhode Island waters will be open from May 1 through December 31 annually.~~

~~7.11.43-3: While fishing on a party or charter boat, no person shall possess scup less than ten inches (10") total length, and no person fishing while on a party or charter boat shall possess, per calendar day, whether caught within the jurisdiction of this State or otherwise, more than thirty (30) scup from May 1 through August 31, and more than forty-five (45) scup from September 1 through October 31 and shall possess no more than thirty (30) scup from November 1 through December 31. **Compliance with the possession limit**~~

~~aboard vessels will be determined by dividing the number of fish on board a vessel by the number of fishermen on board said vessel.~~

7.11.43-4: Notwithstanding any other provisions of this Section, while fishing from the shore at India Point Park in Providence, RI; Conimicut Park in Warwick, RI; or at Stone Bridge in Tiverton, RI; no person shall possess scup less than nine inches (9") total length, and no person fishing from the shore while at the designated sites set forth above shall possess, per calendar day, whether caught within the jurisdiction of this State or otherwise, more than thirty (30) scup from May 1 through December 31.

7.11.54 Scup - Scup Dealer/Shipping/Transfer/Reporting Regulations:

7.11.54-1 Prohibition on the transfer of Scup: No Scup, *Stenotomus chrysops*, may be purchased, bartered, or sold within the State of Rhode Island unless in compliance with the following:

~~A. All persons are prohibited from transferring or attempting to transfer scup from one vessel to another vessel while at sea.~~ The licensed person in charge of the vessel may only transfer scup to a dealer licensed by the State of Rhode Island. Dealers are required to be licensed by the Department (in compliance with RIGL 20-2-27 (d), or 20-2-28.1).

B. All scup must be weighed prior to the removal of the scup from the dealer's premises or from the point of transfer.

C. The weight scales must be certified in accordance with RIGL Chapter 47-1.

D. Vessels are only allowed one trip limit in possession per calendar day. In addition, no person may land more than one trip limit in any calendar day. No person shall transport into the State of Rhode Island any scup which is not landed at a port located within the state unless the transaction of the first point of sale is in another state.

~~E. All dealers are required to record and report all transfers of scup in accordance with the following:~~

~~(1) Dealers shall maintain a written record on forms provided by the DFW, or dealer forms, of each scup transaction at their permanent place of business in Rhode Island, or with an authorized agent located in Rhode Island for inspection 8:00 AM-4:00 PM during the course of normal daily business operations. Records must be available by 10:00 AM on the second business day following the date of landing, not to exceed 48 hours after the~~



~~landing. Records must be available at the dealer's or agent's Rhode Island office for a period of three years.~~

~~(2) The record must include: date of purchase, time of offloading, location of purchase, the vessel name, the name and license number of the Rhode Island license holder and the amount of scup transferred.~~

~~F. Dealers must comply with the reporting requirements as set forth in the RIMFR section 19.14 of the RI Marine Fisheries Regulations.~~

#### 7.11.5-2 License Suspension:

~~A. In addition to the penalty prescribed in RIGL 20-1-16, the license of any person who refuses or neglects to make the report required herein will be suspended by the Director. The license of any person who knowingly or willfully makes a false report or violates any provision of these regulations may be suspended for a period not to exceed one year.~~

~~B. The Director has determined that non-compliance with these regulations seriously threatens the proper management of the available stock of scup and thus the general welfare as represented that it is appropriate to suspend the license of alleged violators pending formal suspension or revocation hearing arising from the alleged violation.~~

~~C. No person shall take, sell, or possess within this state any scup which have not been taken in compliance with the provisions of this regulation. Any scup which the Director shall have reasonable cause to believe have not been taken in compliance with the provisions of RIGL Title 20 and the regulations adopted in accordance therewith shall be confiscated and sold by the Department of Environmental Management. (RIMFC REGULATION) [Penalty - Part 3.3 (RIGL 20-1-16) (RIGL 20-6-29)]~~

7.12 Size, Possession, and Daily Limit Violations On Board Vessels: ~~In any instance when there is a violation of the size, possession, or daily limit on board a vessel carrying more than one person when the catch is commingled, the violation shall be deemed to have been committed by the owner of the vessel, or the operator of the vessel, if the owner is not on board. (RIMFC REGULATION) (Penalty - Part 3.3 (RIGL 20-1-16) (RIGL 20-6-29))~~ **Repealed**

**7.13 Atlantic Sturgeon - Moratorium on Harvest:** No harvest or possession of Atlantic Sturgeon will be permitted within the territorial waters of the State of Rhode Island until further notice. ~~(RIMFC REGULATION) (Penalty - Part 3.3 (RIGL 20-1-16) (RIGL 20-6-29))~~



## **7.14 Black Sea Bass:**

### **7.14.1 Commercial Harvest:**

**7.14.1-1 Legal Minimum Size:** No person fishing commercially shall take, possess, sell, possess for sale, or offer for sale any black sea bass measuring less than eleven (11) inches total length whether caught within the jurisdiction of this State or otherwise.

**7.14.1-2 Commercial Seasons and Possession Limits:** A state quota for black sea bass will be established annually and shall be the most recent amount allocated to the State of Rhode Island by the ASMFC and/or the Secretary of the ~~U.S. Department of Commerce as published in the Federal Register~~ **NOAA Fisheries**. The quota shall be available during the following seasons:

(a) **January 1 – April 30:** Twenty-five percent (25%) of the quota established in this part shall be available from January 1 through April 30. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than 750 pounds of black sea bass during this period. ~~Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.~~

(b) **May 1 – June 30:** Twenty-five percent (25%) of the quota established in this part shall be available from May 1 through June 30. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than 50 pounds of black sea bass during this period. ~~Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.~~

(c) **July 1 – July 31:** Nineteen and a half percent (19.5%) of the quota established in this part shall be available from July 1 through July 31. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than 50 pounds of black sea bass during this period when open. ~~Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.~~

(d) **September 1 – October 31:** Nineteen and a half percent (19.5%) of the quota established in this part shall be available from September 1 through October 31. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than 50 pounds of black sea bass during this period when open. ~~Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.~~

(e) **November 1 – December 31:** Eleven percent (11%) of the quota

established in this part shall be available from November 1 through December 31. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than 100 pounds of black sea bass during this period. ~~Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.~~

(f) Any unused portion of the quota from a sub-period will be equally distributed to the allocations of the remaining sub-periods. The over-harvest of a sub-period allocation will be deducted from the allocations of the remaining sub-periods. Annually, the quota allocations specified in the above sections shall be adjusted by the DFW to charge over-harvest of a sub-period allocation during a given year to the same sub-period of the following year.

~~7.14.1-3 Current Commercial Possession Limit:~~

~~Unless otherwise specified in this section, any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.~~

~~7.14.1-43 Possession Limit Adjustments: The possession limits specified according to section 7.14.1-2 may be modified by the Division of Fish and Wildlife, who, after discussions with fishing industry representatives, will determine, based upon the period of time remaining in the quota period and the current catch rate, whether the quota will be reached prior to the end of the sub-period. Having determined the catch rate and time remaining in the sub-period, Fish and Wildlife will decide whether the possession limit should be decreased or increased. Fish and Wildlife will file a notice with the Secretary of State's Office if the possession limit is changed and publish a news release announcing the change. Fish and Wildlife may modify the possession limit upon providing such notification.~~

~~7.14.1-5 Reporting Requirement—Dealers must comply with the reporting requirements as set forth in section 19.14 of the RIMFC Marine Fisheries Regulations (RIMFC REGULATION) [Penalty—Part 3.3 (RIGL 20-1-16) (RIGL 20-6-29)]~~

**\*PUBLIC HEATING ITEM # 6\***  
**Recreational Black Sea Bass**

**Option 1 – change season:**

**7.14.2 Black Sea Bass— Recreational Harvest:**

**7.14.2-1 Legal Minimum Size and possession limit:** No person fishing recreationally shall possess a black sea bass less than thirteen inches (13") total length, and no person fishing recreationally shall possess, per calendar day, more than three (3) black sea bass whether caught within the jurisdiction of

this State or otherwise, from ~~June 15~~ **June 22** through August 31, and shall possess not more than four (4) black sea bass from September 1 through December 31. ~~Compliance with the possession limit aboard vessels will be determined by dividing the number of fish on a vessel by the number of recreational fishermen onboard said vessel.~~ Total length measurement for black sea bass does not include the tendril located on the caudal (tail) fin.

7.14.2-2 Recreational Season: The recreational season for black sea bass in Rhode Island waters will be open from June 15 at 12:01 a.m. through 11:59 p.m. on December 31, annually.

### **Option 2- change season:**

#### **7.14.2 ~~Black Sea Bass~~– Recreational Harvest:**

7.14.2-1 Legal Minimum Size and possession limit: No person fishing recreationally shall possess a black sea bass less than thirteen inches (13”) total length, and no person fishing recreationally shall possess, per calendar day, more than three (3) black sea bass whether caught within the jurisdiction of this State or otherwise, from June 15 through August 31, and shall possess not more than four (4) black sea bass from September 1 through ~~December 31~~ **October 28**. ~~Compliance with the possession limit aboard vessels will be determined by dividing the number of fish on a vessel by the number of recreational fishermen onboard said vessel.~~ Total length measurement for black sea bass does not include the tendril located on the caudal (tail) fin.

7.14.2-2 Recreational Season: The recreational season for black sea bass in Rhode Island waters will be open from June 15 at 12:01 a.m. through 11:59 p.m. on December 31, annually.

### **Option 3 – change possession limit:**

#### **7.14.2 ~~Black Sea Bass~~– Recreational Harvest:**

7.14.2-1 Legal Minimum Size and possession limit: No person fishing recreationally shall possess a black sea bass less than thirteen inches (13”) total length, and no person fishing recreationally shall possess, per calendar day, more than three (3) black sea bass whether caught within the jurisdiction of this State or otherwise, from June 15 through August 31, and shall possess not more than ~~four (4)~~ **three (3)** black sea bass from September 1 through December 3. ~~Compliance with the possession limit aboard vessels will be determined by dividing the number of fish on a vessel by the number of recreational fishermen onboard said vessel.~~ Total length measurement for black sea bass does not include the tendril located on the caudal (tail) fin.

7.14.2-2 Recreational Season: The recreational season for black sea bass in

Rhode Island waters will be open from June 15 at 12:01 a.m. through 11:59 p.m. on December 31, annually.

## **7.15 Spiny dogfish**

**7.15.1 Commercial Season and Possession Limits:** The commercial season shall extend from May 1 until April 30 of the following year. RI is currently designated as a state that is part of the Northern region. A Northern region quota for spiny dogfish will be established annually and shall be the most recent allocation by the ASMFC and/or the Secretary of the U.S. Department of Commerce as published in the Federal Register, which is currently set at 58% of the coastwide quota. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than 4,000 pounds of spiny dogfish. When notified that the quota in the Northern region has been harvested, or projected to be harvested, as determined by the National Marine Fisheries Service or the ASMFC, the Division of Fish and Wildlife shall file a notice with the Office of the Secretary of State prohibiting the commercial landings, harvest and possession of spiny dogfish in state waters for the remainder of the designated period.

- (a) The **Division DFW** 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. Pursuant to the authority of **RIMFR Part III Section 3.2.1**, the **Division DFW** is further authorized to adjust season(s) and possession limits governing the taking of spiny dogfish as may be deemed necessary to comply with said agreements. The **Division DFW** will consult with the Rhode Island state-water spiny dogfish fishers prior to negotiating the subject agreements.

**7.15.2 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 shall be prohibited in all state waters. Vessels that land spiny dogfish must land fins in proportion to carcasses, with a maximum 5% fin to carcass ratio, by weight. Fins may be removed at sea, but the corresponding carcass must be retained. All fins and carcasses must be landed at the same time and in the same location. **~~RIMF REGULATIONS (Penalty – Part 3.3 (RIGL 20-1-16))~~**

## **7.16 American Eel**

### **7.16.1 Commercial:**

**7.16.1-1 Minimum size:** No person shall take, attempt to take, possess, sell, or offer for sale any American Eel measuring less than nine inches (9").

7.16.1-2 Season and possession limit: The commercial season for American eels in Rhode Island waters is January 1 through December 31, annually. Commercial harvest will be prohibited between September 1 through December 31 annually from any gear type other than baited traps/pots or spears. The possession limit is unlimited for an individual with a valid commercial fishing license.

7.16.1-3 Commercial gear restrictions: Eel pots shall have a minimum mesh size of ½ by ½ inches or shall have a 4 by 4 inch escape panel constructed of a mesh size of at least ½ by ½ inch mesh. The escape vent allowance will be in effect from January 1, 2014 – December 31, 2016, after which the entire pot must meet the ½ by ½ inches mesh requirement.

### 7.16.2 Recreational:

7.16.2-1 Minimum size: No person shall take, attempt to take, or possess any American Eel measuring less than nine inches (9”).

7.16.2-2 Season and possession limit: The recreational season for American eels in Rhode Island waters is open January 1 through December 31, annually. The recreational possession limit is twenty-five (25) American eels per angler per day.

7.16.1-3 Licensed Party and Charter Boat possession limit: The licensed party and charter boat season for American eels in Rhode Island waters is open January 1 through December 31, annually. The licensed party and charter boat possession limit is fifty (50) American eels per angler per day for the licensed captain and any employed crew member. For any paying customer the possession limit is twenty-five (25) American eels per angler per day.

### **7.17 American Shad:**

The harvesting, landing, or possession of American Shad (*Alosa sapidissima*) within the State of Rhode Island and its territorial waters is prohibited. ~~RIMF REGULATIONS (Penalty — Part 3.3 (RIGL 20-1-16))~~

### **7.18 Weakfish**

#### 7.18.1 – Commercial

7.18.1-1 Minimum size: No person fishing commercially shall take, possess, sell, possess for sale, or offer for sale any weakfish measuring less than sixteen inches (16”) total length whether caught within the jurisdiction of this State or otherwise.

7.18.1-2 Season and Possession Limits: During the period June 1 through June 30 and the period August 7 through November 8, the commercial possession limit for weakfish shall be 100 pounds of weakfish per vessel per

calendar day. For directed trawl operations, codend mesh size must be  $\geq 4.5$ " diamond or 4.0" square. At all other times, it shall be unlawful to possess aboard or land from a vessel more than 100 pounds of weakfish, as bycatch, in any one calendar day and it shall also be unlawful to possess aboard or land from a vessel any amount of weakfish, up to 100 pounds, where there is not at least an equal poundage of other species on board the vessel. Provided, however, that the commercial hook and line fishery is not permitted a bycatch allowance.

#### 7.18.2 – Recreational:

7.18.2-1 Minimum Size: No person fishing recreationally shall possess a weakfish less than sixteen inches (16") total length.

7.18.2-2 Season and Possession Limits: The recreational season for weakfish in Rhode Island waters is open January 1 through December 31, annually. No person fishing recreationally shall possess, per calendar day, more than one (1) fish whether caught within the jurisdiction of this state or otherwise. ~~Compliance with the possession limit aboard vessels will be determined by dividing the number of fish on a vessel by the number of recreational fishermen onboard said vessel. RIMF REGULATIONS (Penalty – Part 3.3 (RIGL 20-1-16))~~

#### 7.19 Atlantic Herring (*Clupea harengus*):

##### 7.19.1 Commercial:

7.19.1-1 Season and Possession Limits: The season for Atlantic herring begins annually on January 1. The possession limit is 2,000 pounds per vessel per day, unless the vessel holds a permit issued pursuant to sub-section 7.19.1-2. When the Atlantic herring quota has been harvested as determined by the ~~National Marine Fisheries Service (NMFS)~~ **National Ocean and Atmospheric Administration (NOAA) Fisheries**, the season will close. ~~Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.~~

7.19.1-2 Rhode Island State Waters Atlantic Herring Fishing Permit: An RI ~~State Waters~~ Atlantic Herring Fishing Permit issued annually by the ~~Division of Fish and Wildlife (RIDFW)~~ **DFW** is required for vessels engaged in the fishing and/or processing of over 2,000 pounds of Atlantic Herring in Rhode Island state waters.

(a) Issuance of the ~~RIDFW~~ State Waters Atlantic Herring Fishing Permit is contingent on fishing vessel captains attending a meeting with ~~RIDFW~~ staff where they are required to give proof that:

(1) 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).

(2) The vessel captain(s) have provided a valid email address to ~~RI~~DFW at which the captain can access while fishing for the purpose of receiving advisories pertaining to river herring.

(3) The vessel captain(s) have received from ~~RI~~DFW 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.

(4) The vessel captain(s) have received from ~~RI~~DFW a copy of all applicable regulations governing the commercial harvest of Atlantic herring in Rhode Island waters.

- (b) ~~RI~~DFW **State Waters** Atlantic herring fishing permits are valid for one calendar year from January 1 to December 31.
- (c) Initial issuance or renewal of the ~~RI~~DFW **State Waters** Atlantic Herring Fishing Permit will be subject to a background check to determine if the applicant captain or vessel has been assessed a criminal or administrative penalty in the past three years of RIMFR sections 7.19 (Atlantic herring) or 7.20 (River herring) or more than one marine fisheries violation.

7.19.1-3 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, *Alosa pseudoharengus* or blueback herring, *Alosa aestivalis* (river herring) provided that the count of the combined river herring is 5% or less than the count of Atlantic herring onboard the vessel.

- ~~(a) Vessels transiting state waters must have all of the fish harvesting gear on board the vessel and stowed while in state waters.~~
- ~~(b) Vessels landing in Rhode Island must possess an applicable RIDEM landing permit or be operated by the holder of an applicable RIDEM commercial fishing license as defined in RIDEM Commercial and Recreational Saltwater Fishing Licensing Regulations sections 6.8, 6.9 and 6.10.~~
- (c) 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 pursuant to section 7.19.1-3(e) 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.

- (d) A batch of fish is defined as all fish in a separate container.
- (e) A container is defined as any box, tote, bag, bucket or other receptacle capable of retaining at least 25 gallons of loose fish which may be separated from the total catch of Atlantic herring being landed.

## **7.20 River Herring**

No person shall land, catch, take, or attempt to catch or take any Alewives, *Alosa pseudoharengus* or Blueback herring *Alosa aestivalis*, from any marine waters of the State of Rhode Island. Possession of any Alewives or Blueback herring at any time is prohibited and shall be evidence that said herring was taken in violation of ~~this section~~ **these regulations** ~~RIMF REGULATIONS (Penalty—Part 3.3 (RIGL 20-1-16)).~~

## **7.21 Monkfish**

### **7.21.1 – Commercial:**

**7.21.1-1 Minimum size:** No person fishing commercially shall land or possess any monkfish measuring less than seventeen inches (17”) total length or eleven inches (11”) tail length whether that fish was caught within the jurisdiction of this State or otherwise.

### **7.21.1-2 Possession Limits:**

(a) For any non-federally permitted RI licensed vessel, the possession limit will be 550 pounds tail weight or 1,826 pounds whole weight of monkfish 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. In SAFIS landing monkfish in the “whole” is reported using the grade “gutted, head on, tail on”.

- (1) The possession of monkfish livers may not exceed the number of gutted-fish and tails combined.
- (2) The possession of monkfish heads may not exceed the number of gutted-head-off-fish and tails combined.



(b) Repealed

(c) 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 3% of the federal Southern Management Area (SMA) Total Allowable Landings (TAL) as specified by ~~NMFS NOAA Fisheries~~. When 2% of the SMA TAL has been harvested as determined by the ~~Division of Fish and Wildlife DFW~~, the possession limit will decrease to 50 pounds tail weight or 166 pounds whole weight of monkfish per vessel per calendar day, where it shall remain for the remainder of the fishing year.

(d) Commercial Fishing Year: The commercial monkfish fishery shall operate on a May 1 through April 30 fishing year.

7.21.1-3: Vessels in possession of a federal permit allowing 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, and thus not be bound by the possession limits set forth in section 7.21.1-2. ~~Vessels in possession of a federal permit allowing the commercial harvest of monkfish may also transit state waters in possession of monkfish in the amount authorized to be possessed pursuant to applicable federal regulations and land the same if so permitted pursuant to Rhode Island State Law, so long as all of the fish harvesting gear on board the vessel is stowed while in state waters.~~

#### 7.21.2 – Monkfish - Recreational Harvest:

7.21.2-1 Minimum Size: No person fishing recreationally shall land or possess any monkfish measuring less than seventeen inches (17”) total length or eleven inches (11”) tail length whether that fish was caught within the jurisdiction of this State or otherwise.

7.21.2-2 Possession Limits: No person who is fishing recreationally in RI waters, may possess more than 50 pounds tail weight or 166 pounds whole weight of monkfish 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 ~~RIMF REGULATIONS (Penalty –Part 3.3 (RIGL 20-1-16))~~.

### **7.22 Cod**

#### 7.22.1 – Commercial:

7.22.1-1 Minimum size: No person fishing commercially shall land or possess

any cod measuring less than nineteen inches (19") total length whether caught within the jurisdiction of this State or otherwise.

7.22.1-2 Possession Limits:

(a) For any vessel fishing in state waters the possession limit will be 1,000 pounds of cod per vessel per calendar day.

(b) 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 1% of the federal Georges Bank cod annual catch limit (ACL) for the given fishing year. When 90% of the state water quota has been harvested as determined by the ~~Division of Fish and Wildlife~~ **DFW**, the possession limit will decrease to 75 pounds of cod per vessel per calendar day for the remainder of the fishing year.

~~7.22.1-3 Transiting Provision: Vessels in possession of a federal permit allowing the commercial harvest of cod may also transit state waters in possession of cod in the amount authorized to be possessed pursuant to applicable federal regulations and land the same if so permitted pursuant to Rhode Island State Law, so long as all of the fish harvesting gear on board the vessel is stowed while in state waters.~~

7.24.1-43 Commercial Fishing Year: The commercial Cod fishery shall operate on a May 1 through April 30 fishing year.

7.22.2 ~~Cod~~ Recreational Harvest:

7.22.2-1 Minimum Size: No person fishing recreationally shall land or possess any cod measuring less than twenty-two inches (22") total length, or any cod fillet measuring less than fourteen inches (14") in total length in accordance with 7.22.2-1(a), whether caught within the jurisdiction of this State or otherwise.

(a) Filleting of Cod: The fillets or cleaned cod (head and tail removed) shall measure at least fourteen inches (14") in length, and each fillet shall have at least two (2) square inches (5.1 square centimeters) of skin left intact to assist in species identification. This section shall remain in effect through June 30, 2012.

7.22.2-2 Possession Limits: No person who is fishing recreationally in RI waters, may possess more than ten (10) cod per person per calendar day.

~~7.22.2-3 Vessels in possession of a federal permit allowing the recreational harvest of cod may transit state waters in possession of cod in the amount authorized to be possessed pursuant to applicable federal regulations and land the same if so permitted pursuant to Rhode Island State Law, so long as all of~~

~~the fish harvesting gear on board the vessel is stowed while in state waters.  
RIMF REGULATIONS (Penalty—Part 3.3 (RIGL 20-1-16))~~

## **7.23 Sea Scallops**

### 7.23.1 – Commercial:

7.23.1-1 Minimum size: No person fishing commercially shall land or possess any sea scallops measuring less than three and one half inches (3.5”) shell length whether caught within the jurisdiction of this State or otherwise. Shell length is a straight line measurement from the hinge to the part of the shell that is furthest away from the hinge.

7.23.1-2 Possession Limits: For any non-federally permitted RI licensed vessel, the possession limit will be four hundred (400) pounds of shucked or fifty (50) bushels of in-shell scallops.

~~7.23.1-3: Vessels in possession of a federal permit allowing the commercial harvest of sea scallops may transit state waters in possession of sea scallops in the amount authorized to be possessed pursuant to applicable federal regulations and land the same if so permitted pursuant to Rhode Island State Law, so long as all of the fish harvesting gear on board the vessel is stowed while in state waters.~~

7.23.1-4 Equipment: The maximum dredge size allowed for a vessel in possession of sea scallops will be ten and one half feet (10.5’). The ring size used in a scallop dredge possessed or used by scallop vessels shall not be smaller than 4 inches (4”). The mesh size of a net, net material or any other material on the top of a scallop dredge (twine top) possessed or used by vessels fishing with scallop dredge gear shall not be smaller than 10 inch (10”) square or diamond mesh.

### 7.23.2 - Recreational

7.23.2-1 Minimum Size: No person who is fishing recreationally shall land or possess any sea scallops measuring less than three and one half inches (3.5”) shell length whether caught within the jurisdiction of this State or otherwise. Shell length is a straight line measurement from the hinge to the part of the shell that is furthest away from the hinge.

7.23.2-2 Possession Limits: No person who is fishing recreationally in RI waters, will possess more than forty (40) pounds of shucked or five (5) bushels of in-shell scallops.

7.23.2-3 Equipment: The maximum dredge size allowed for a vessel in possession of sea scallops will be ten and one half feet (10.5’) ~~RIMF REGULATIONS (Penalty—Part 3.3 (RIGL 20-1-16)).~~

**\*PUBLIC HEATING ITEM # 7\***  
**Commercial and recreational Coastal Sharks**

**Option 1 – changes to Commercial Species Groups:**

**7.24 Coastal Sharks**

**7.24.1 – Commercial:**

7.24.1-1 Commercial Species Groupings: Species managed under the ASMFC Interstate Fishery Management Plan (IFMP) for Atlantic Coastal Sharks shall be grouped into ~~six~~ **eight** commercial “species groups” for management purposes, hereafter referred to as: Prohibited Species, Research Species, Smoothhound Sharks, ~~Small Coastal Sharks, Non-Sandbar Large Coastal Sharks, Non-Blacknose Small Coastal Sharks, Blacknose Sharks, Aggregated Large Coastal Sharks, Hammerhead Sharks,~~ and Pelagic Sharks. These groupings apply to all commercial shark fisheries in state waters.

7.24.1-2 Commercial Fishing Year: The commercial shark fishery shall operate on a January 1 through December 31 fishing year.

7.24.1-3 Commercial Possession Limits: Possession limits, quotas, and seasonal periods for commercial shark fisheries will be established annually either through the ~~National Marine Fisheries Service (NMFS)~~ **NOAA Fisheries**, the ASMFC, or the ~~Division of Fish and Wildlife~~ **DFW** in accordance therewith:

- a. Properly licensed commercial fishermen may possess any of the species of sharks listed in Table 7.24.1 below in the Smoothhound Sharks, ~~Small Coastal Sharks, Non-Sandbar Large Coastal Sharks, Non-Blacknose Small Coastal Sharks, Blacknose Sharks, Aggregated Large Coastal Sharks, Hammerhead Sharks,~~ and Pelagic Sharks species groups.
- b. There are no commercial trip limits or possession limits for Smoothhound Sharks or for the sharks listed in the Small Coastal Sharks and the Pelagic Species groups.
- c. No person shall possess more than 36 sharks, per vessel per calendar day, regardless of species, from the ~~Non-Sandbar Large Coastal Sharks~~ **Aggregated Large Coastal Sharks or Hammerhead Sharks** species group.

Table 7.24.1: Sharks in the Smoothhound Sharks, ~~Small Coastal Sharks, Non-Sandbar Large Coastal Sharks,~~ **Non-Blacknose Small Coastal**

**Sharks, Blacknose Sharks, Aggregated Large Coastal Sharks, Hammerhead Sharks, and Pelagic Sharks Species Groups.**

Common Name	Scientific Name
<b>Smoothhound Sharks</b>	
Smooth Dogfish	<i>Mustelus canis</i>
Florida smoothhound	<i>Mustelis norrisi</i>
<del>Small Coastal Sharks</del> <b><u>Non-Blacknose Small Coastal Sharks</u></b>	
Atlantic sharpnose	<i>Rhizoprionodon terraenovae</i>
Finetooth	<i>Carcharhinus isodon</i>
Bonnethead	<i>Sphyrna tiburo</i>
<del>Small Coastal Sharks</del> <b><u>Blacknose Sharks</u></b>	
Blacknose	<i>Carcharhinus acronotus</i>
<del>Non-Sandbar Large Coastal Sharks</del> <b><u>Aggregated Large Coastal Sharks</u></b>	
Silky	<i>Carcharhinus falciformis</i>
Tiger	<i>Galeocerdo cuvier</i>
Blacktip	<i>Carcharhinus limbatus</i>
Spinner	<i>Carcharhinus brevipinna</i>
Bull	<i>Carcharhinus leucas</i>
Lemon	<i>Negaprion brevirostris</i>
Nurse	<i>Ginglymostoma cirratum</i>
<del>Non-Sandbar Large Coastal Sharks</del> <b><u>Hammerhead Sharks</u></b>	
Scalloped hammerhead	<i>Sphyrna lewini</i>
Great hammerhead	<i>Sphyrna mokarran</i>
Smooth hammerhead	<i>Sphyrna zygaena</i>
<b>Pelagic Sharks</b>	
Shortfin mako	<i>Isurus oxyrinchus</i>
Porbeagle	<i>Lamna nasus</i>
Common thresher	<i>Alopias vulpinus</i>
Oceanic whitetip	<i>Carcharhinus longimanus</i>
Blue	<i>Prionace glauca</i>

**7.24.1-4 Transfer of Sharks: No person shall transfer sharks between vessels at sea. Repealed**

**7.24.1-5 Prohibition on the Possession of Sharks in the Prohibited and Research Species Groups: No person shall possess any species of sharks listed in Table 7.24.2 below in the Prohibited Species and Research Species groups, except in accordance with the provisions of section 7.24.1-8.**

**Table 7.24.2: Sharks in the Prohibited and Research Species Groups**

Prohibited Species Group	
Common Name	Scientific Name
Sand tiger	<i>Carcharias taurus</i>

Bigeye sandtiger	<i>Odontaspis noronhai</i>
Whale	<i>Rhincodon typus</i>
Basking	<i>Cetorhinus maximus</i>
White	<i>Carcharodon carcharias</i>
Dusky	<i>Carcharhinus obscurus</i>
Bignose	<i>Carcharhinus altimus</i>
Galapagos	<i>Carcharhinus galapagensis</i>
Night	<i>Carcharhinus signatus</i>
Reef	<i>Carcharhinus perezii</i>
Narrowtooth	<i>Carcharhinus brachyurus</i>
Caribbean sharpnose	<i>Rhizoprionodon porosus</i>
Smalltail	<i>Carcharhinus porosus</i>
Atlantic angel	<i>Squatina dumeril</i>
Longfin mako	<i>Isurus paucus</i>
Bigeye thresher	<i>Alopias superciliosus</i>
Sharpnose sevengill	<i>Hepttranchias perlo</i>
Bluntnose sixgill	<i>Hexanchus griseus</i>
Bigeye sixgill	<i>Hexanchus nakamurai</i>
Research Species Group	
Sandbar	<i>Carcharhinus plumbeus</i>

**7.24.1-6 Quota Specification:** Quotas for coastal shark species will be established annually by the ASMFC and/or ~~the Secretary of the U.S. Department of Commerce as published in the Federal Register~~ **NOAA Fisheries**. It shall be unlawful for any person to possess any species of shark in state waters when the ~~National Marine Fisheries Service (NMFS)~~ **NOAA Fisheries** prohibits the possession of that species in federal waters.

When notified that the quota set for any species of shark is harvested or projected to be harvested, as determined by the ~~National Marine Fisheries Service (NMFS)~~ **NOAA Fisheries**, the ASMFC, or the ~~Division of Fish and Wildlife~~ **DFW**, the ~~Division of Fish and Wildlife~~ **DFW** shall file notice with the Office of the Secretary of State prohibiting the commercial landings, harvest and possession of that species in state waters for the remainder of the designated period.

**7.24.1-7 Commercial License:** A person must hold a state commercial license in accordance with RIGL Chapter 20-2.1 in order to commercially land, harvest, possess, and sell sharks in state waters.

**7.24.1-8 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 the possession of a valid state collector's permit obtained from the ~~Division of Fish and Wildlife~~ **DFW**.

Any person granted a collector's permit shall:

- a. Report to the Director, within 30 days after coming into possession of a shark. For each and every shark collected for research or display, the report to the Director shall include the following information: species identification, length, weight, date and location where caught by latitude and longitude coordinates, and the gear used; and
- b. For each shark taken for live display, the holder of the permit shall also report to the Director annually, by December 31 of each year, for the life of the shark. The annual report shall include all of the information set forth in the original report to the Director pertaining to the sharks, as well as updated information on the length and weight of the shark.

7.24.1-9 Dealer Permit:

- a. No person shall sell any shark species to a person or dealer who does not possess a state commercial dealer license issued pursuant to RIGL 20-2.1, and a federal Commercial Shark Dealer Permit issued by the ~~National Marine Fisheries Service~~ **NOAA Fisheries**.
- b. No person shall purchase any shark species for sale or resale unless such person, possesses a state commercial dealer license issued pursuant to RIGL 20-2.1, and a federal Commercial Shark Dealer Permit issued by the ~~National Marine Fisheries Service~~ **NOAA Fisheries**. *[Federal Commercial Shark Dealer Permits are open access and can be obtained by contacting the ~~National Marine Fisheries Service~~ **NOAA Fisheries** Southeast Regional Office in St. Petersburg, FL at (727) 824-5326. Applications are available on the web at <http://sero.nmfs.noaa.gov/permits/permits.htm>].*

7.24.1-10 Authorized Commercial Gear: No person shall fish commercially for sharks in state waters by any method other than the following gear types:

- Rod & reel
- Handlines, which are defined as a mainline to which no more than two 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.
- Small Mesh Gillnets which are defined as having a stretch mesh size smaller than 5 inches
- Large Mesh Gillnets which are defined as having a stretch mesh size equal to or greater than 5 inches.
- Trawl nets.
- Shortlines which are defined as fishing lines containing 50 or fewer hooks and measuring less than 500 yards in length. A maximum of 2 shortlines shall be allowed per vessel.
- Pound nets/fish traps.



- Weirs.

7.24.1-11 Bycatch Reduction Measures: Vessels using shortlines and large-mesh gillnets to catch sharks must abide by the following bycatch regulation measures. Any vessels using shortlines or large-mesh gillnets that do not follow the following bycatch reduction measures are prohibited from possession, landing or selling any sharks.

a. Any vessel using a shortline shall:

- (1) use corrodible circle hooks, which are defined as non-offset hooks with the point turned perpendicularly back to the shanks; and
- (2) 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
- (3) have all captains and vessel owners federally 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. [Information on these workshops can be found at <http://www.nmfs.noaa.gov/sfa/hms/workshops/index.htm> or by calling the Management Division at (727) 824-5399.]

b. Any vessel using large-mesh gillnets, must use nets that are shorter than 2.5 kilometers.

7.24.1-12 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.

Commercial fishermen may completely remove all smoothhound fins year round. If fins are removed, the total wet weight of the shark fins may not exceed 12 percent of the total dressed weight of smoothhound carcasses landed or found on board a vessel.

#### 7.24.2 Recreational:



**7.24.2-1 Recreationally Permitted Species:** Recreational fishermen may possess any of the species of sharks listed in Table 7.24.3.

**Table 7.24.3: Recreationally Permitted Species List.**

Recreationally PERMITTED Species	
Smooth Dogfish (Smoothhound) <sup>1</sup>	<i>Mustelus canis</i>
Atlantic sharpnose	<i>Rhizoprionodon terraenovae</i>
Finetooth	<i>Carcharhinus isodon</i>
Blacknose	<i>Carcharhinus acronotus</i>
Bonnethead	<i>Sphyrna tiburo</i>
Tiger	<i>Galeocerdo cuvier</i>
Blacktip	<i>Carcharhinus limbatus</i>
Spinner	<i>Carcharhinus brevipinna</i>
Bull	<i>Carcharhinus leucas</i>
Lemon	<i>Negaprion brevirostris</i>
Nurse	<i>Ginglymostoma cirratum</i>
Scalloped hammerhead	<i>Sphyrna lewini</i>
Great hammerhead	<i>Sphyrna mokarran</i>
Smooth hammerhead	<i>Sphyrna zygaena</i>
Shortfin mako	<i>Isurus oxyrinchus</i>
Porbeagle	<i>Lamna nasus</i>
Common thresher	<i>Alopias vulpinus</i>
Oceanic whitetip	<i>Carcharhinus longimanus</i>
Blue	<i>Prionace glauca</i>

<sup>1</sup> Smooth dogfish are considered and referred to as smoothhound.

**7.24.2-2 Recreationally Prohibited Species:** No person fishing recreationally shall possess, in state waters any shark species that is not permitted to be taken in federal waters, as listed in Table 7.24.4.

**Table 7.24.4: Recreationally Prohibited Species List.**

Recreationally PROHIBITED Species	
Sandbar	<i>Carcharhinus plumbeus</i>
Silky	<i>Carcharhinus falciformis</i>
Sand tiger	<i>Carcharias taurus</i>
Bigeye sand tiger	<i>Odontaspis noronhai</i>
Whale	<i>Rhincodon typus</i>
Basking	<i>Cetorhinus maximus</i>
White	<i>Carcharodon carcharias</i>
Dusky	<i>Carcharhinus obscurus</i>
Bignose	<i>Carcharhinus altimus</i>
Galapagos	<i>Carcharhinus galapagensis</i>
Night	<i>Carcharhinus signatus</i>
Reef	<i>Carcharhinus perezii</i>
Narrowtooth	<i>Carcharhinus brachyurus</i>

Caribbean sharpnose	<i>Rhizoprionodon porosus</i>
Smalltail	<i>Carcharhinus porosus</i>
Atlantic angel	<i>Squatina dumeril</i>
Longfin mako	<i>Isurus paucus</i>
Bigeye thresher	<i>Alopias superciliosus</i>
Sharpnose sevengill	<i>Heptranchias perlo</i>
Bluntnose sixgill	<i>Hexanchus griseus</i>
Bigeye sixgill	<i>Hexanchus nakamurai</i>

**7.24.2-3 Recreational 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.

**7.24.2-4 Recreational Minimum Size Limits:** No person fishing recreationally shall possess a shark with a fork length less than 54 inches, with the exception of Atlantic sharpnose, blacknose, finetooth, bonnethead, and smoothhound, which have no minimum size limit. (see Table 7.4).

**Option 2 – changes to recreational minimum sizes:**

Table 7.24.5: Recreational Minimum Size Limits

<b>No Minimum Size Limit</b>	<b>At Least 54 inches (4.5 Feet) Fork Length</b>
<b>Smooth Dogfish (Smoothhound)</b> <b>Atlantic sharpnose</b> <b>Finetooth</b> <b>Blacknose</b> <b>Bonnethead</b>	<b>Tiger</b> — <b>Shortfin mako</b> <b>Blacktip</b> — <b>Porbeagle</b> <b>Spinner</b> — <b>Common thresher</b> <b>Bull</b> — <b>Oceanic whitetip</b> <b>Lemon</b> — <b>Blue</b> <b>Nurse</b> — <b>Scalloped hammerhead</b> <b>Great hammerhead</b> — <b>Smooth hammerhead</b>

<b><u>No Minimum Size</u></b>	<b><u>Minimum Fork Length of 54 inches (4.5 Feet)</u></b>	<b><u>Minimum Fork Length of 78 inches (6.5 Feet)</u></b>
<u>Smooth Dogfish (Smoothhound)</u> <u>Atlantic sharpnose</u> <u>Finetooth</u> <u>Blacknose</u> <u>Bonnethead</u>	<u>Tiger</u> <u>Shortfin mako</u> <u>Blacktip</u> <u>Porbeagle</u> <u>Spinner</u> <u>Common thresher</u> <u>Bull</u> <u>Oceanic whitetip</u> <u>Lemon</u> <u>Blue</u> <u>Nurse</u>	<u>Scalloped hammerhead</u> <u>Smooth hammerhead</u> <u>Great hammerhead</u>

**7.24.2-5 Authorized Recreational 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 gangions or hooks are attached; retrieved by hand, not by mechanical means; and attached to, or in contact with, a vessel.

7.24.2-6 Recreational Shore-Fishing Possession Limits: No recreational fishermen fishing from shore shall possess, in any one calendar day, more than one shark from the recreationally permitted species list (*Section 7.24.2-1, Table 7.24.3*), except that each such fishermen may individually possess one additional bonnethead (*Sphyrna tiburo*), and one additional Atlantic sharpnose (*Rhizoprionodon terraenovae*) per calendar day. However, recreational shore-fishermen may harvest an unlimited amount of smoothhound.

Sharks that are transported by a vessel are considered 'boat assisted' and are regulated under the more restrictive vessel-fishing possession limits in section 7.24.2-7 regardless of how or where they were caught.

7.24.2-7 Recreational Vessel-Fishing Possession Limits: No vessel engaged in recreational fishing vessels shall possess, in any one calendar day, or any one trip, whichever is less, more than one shark from the recreationally permitted species list (*Section 7.24.2-1, Table 7.3*), regardless of the number of people on board the vessel, except that each recreational fisherman fishing from a vessel may individually possess one additional bonnethead (*Sphyrna tiburo*), and one additional Atlantic sharpnose (*Rhizoprionodon terraenovae*), per calendar day, or per trip, whichever is less. However, recreational vessel-fishermen may harvest an unlimited amount of smoothhound. **RIME REGULATIONS (Penalty—Part 3.3 (RIGL 20-1-16))**

## **7.25 Skate**

### **7.25.1 Commercial:**

7.25.1-1 Commercial Fishing Year: The commercial skate fishery shall operate on a May 1 through April 30 fishing year.

7.25.1-2 Prohibited Species: It shall be unlawful for any person to possess any barndoor (*Dipturus laevis*) or thorny (*Amblyraja radiata*)-species of skate in Rhode Island.

7.25.1-3 Skate Wing Fishery: shall be defined as skate harvested, possessed, or landed for food for human consumption, i.e., product landed with a designated Atlantic Coastal Cooperative Statistics Program Disposition Code 001 = Food.

a. Current Commercial Possession Limit: There are no commercial trip limits or possession limits for commercial fishers engaged in the skate

wing fishery, except as specified in 7.25.1-5, provided the vessel is fishing in state waters, not on a previously declared Day At Sea (DAS), and without an active federal open-access skate permit.

7.25.1-4 Skate Bait Fishery: shall be defined as skate harvested, possessed, or landed for use as bait i.e., product landed with a designated Atlantic Coastal Cooperative Statistics Program Disposition Code 008 = Bait.

a. Current Commercial Possession Limit: There are no commercial trip limits or possession limits for commercial fishers engaged in the skate bait fishery, except as specified in 7.25.1-5, provided the vessel is 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).

7.25.1-5 Possession Limit Adjustments: When notified by the ~~National Marine Fisheries Service (NMFS)~~ **NOAA Fisheries** that the federal Skate Wing or Skate Bait fishery possession limit is being reduced due to a federally-specified percentage of the Total Allowable Landings (TAL) being harvested, the RIDEM will promulgate a comparable reduced possession limit specific to the fishery being addressed by ~~(NMFS)~~ **NOAA Fisheries**, until the end of the fishing year, or unless the federal restriction is relinquished. ~~Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.~~

#### 7.25.2 Skate— Recreational Harvest:

7.25.2-1 Prohibited Species: It shall be unlawful for any person to possess any barndoor (*Dipturus laevis*) or thorny (*Amblyraja radiata*)-species of skate in Rhode Island.

7.25.2-2 Possession Limits: There are no recreational possession limits for skate provided the vessel is fishing in state waters, except as specified in 7.25.2-3.

7.25.2-3 Possession Limit Adjustments: The recreational possession limit for skate shall be adjusted to the most restrictive commercial possession limit if a possession limit is imposed on either of the two commercial skate fisheries as stated in sections 7.25.1-3, 7.25.1-4, and 7.25.1-5. ~~Any modifications made to the recreational possession limit by the Division of Fish and Wildlife will be promulgated in Part VII, section 7.25.2. RIMF REGULATIONS (Penalty—Part 3.3 (RIGL 20-1-16).~~

### 7.26 American Plaice (Dab)

#### 7.26.1 – Commercial

7.26.1-1 Commercial Fishing Year: The commercial American plaice fishery shall operate on a May 1 through April 30 fishing year.

7.26.1-2 Minimum size: No person fishing commercially shall land or possess any American plaice measuring less than twelve inches (12") total length whether that fish was caught within the jurisdiction of this State or otherwise.

7.26.1-3 Possession Limits: There are no possession limits for American plaice provided the vessel is fishing in state waters and does not have a federal permit allowing the harvest of American plaice.

A. Vessels in possession of a federal permit allowing the harvest of American plaice in federal waters may harvest American plaice in state waters in the amount authorized to be possessed pursuant to federal regulations.

~~7.26.1-4 Transiting Provision – Vessels in possession of a federal permit allowing the commercial harvest of American plaice may transit state waters in possession of American plaice pursuant to applicable federal regulations and land the same if so permitted pursuant to Rhode Island State Law, so long as all of the fish harvesting gear on board the vessel is stowed while in state waters.~~

## 7.26.2 – Recreational

7.26.2-1 Recreational Fishing Year: The recreational American plaice fishery shall operate on a May 1 through April 30 fishing year.

7.26.2-2 Minimum size: No person fishing recreationally shall land or possess any American plaice measuring less than fourteen inches (14") total length whether that fish was caught within the jurisdiction of this State or otherwise.

7.26.2-3 Possession Limits: There are no recreational possession limits for American plaice provided the vessel is fishing in state waters and does not have a federal permit allowing the harvest of American plaice.

A. Vessels in possession of a federal permit allowing the recreational harvest of American plaice in federal waters may harvest American plaice in state waters in the amount authorized to be possessed pursuant to federal regulations.

~~7.26.1-4 Transiting Provision – Vessels in possession of a federal permit allowing the recreational harvest of American plaice may transit state waters in possession of American plaice pursuant to applicable federal regulations and land the same if so permitted pursuant to Rhode Island State Law, so long as~~

~~all of the fish harvesting gear on board the vessel is stowed while in state waters. RIMF REGULATIONS [Penalty – Part 3.3 (RIGL 20-1-16)]~~

## 7.27 Haddock

### 7.27.1 – Commercial:

7.27.1-1 Commercial Fishing Year: The commercial haddock fishery shall operate on a May 1 through April 30 fishing year.

7.27.1-2 Minimum size: No person fishing commercially shall land or possess any haddock measuring less than sixteen inches (16”) total length whether that fish was caught within the jurisdiction of this State or otherwise.

7.27.1-3 Possession Limits: There are no possession limits for haddock provided the vessel is fishing in state waters and does not have a federal permit allowing the harvest of haddock.

A. Vessels in possession of a federal permit allowing the harvest of haddock in federal waters may harvest haddock in state waters in the amount authorized to be possessed pursuant to federal regulations.

~~7.27.1-4 Transiting Provision – Vessels in possession of a federal permit allowing the commercial harvest of haddock may transit state waters in possession of haddock pursuant to applicable federal regulations and land the same if so permitted pursuant to Rhode Island State Law, so long as all of the fish harvesting gear on board the vessel is stowed while in state waters.~~

### 7.27.2 – Recreational:

7.27.2-1 Recreational Fishing Year: The recreational haddock fishery shall operate on a May 1 through April 30 fishing year.

7.27.2-2 Minimum size: No person fishing recreationally shall land or possess any haddock measuring less than eighteen inches (18”) total length whether that fish was caught within the jurisdiction of this State or otherwise.

7.27.2-3 Possession Limits: There are no recreational possession limits for haddock provided the vessel is fishing in state waters and does not have a federal permit allowing the harvest of haddock.

A. Vessels in possession of a federal permit allowing the recreational harvest of haddock in federal waters may harvest haddock in state waters in the amount authorized to be possessed pursuant to federal regulations.

~~7.27.1-4 Transiting Provision – Vessels in possession of a federal permit allowing the recreational harvest of haddock may transit state waters in possession of haddock pursuant to applicable federal regulations and land the same if so permitted pursuant to Rhode Island State Law, so long as all of the fish harvesting gear on board the vessel is stowed while in state waters. RIMF REGULATIONS [Penalty – Part 3.3 (RIGL 20-1-16)]~~

## 7.28 Pollock

### 7.28.1 – Commercial:

7.28.1-1 Commercial Fishing Year: The commercial pollock fishery shall operate on a May 1 through April 30 fishing year.

7.28.1-2 Minimum size: No person fishing commercially shall land or possess any pollock measuring less than nineteen inches (19”) total length whether that fish was caught within the jurisdiction of this State or otherwise.

7.28.1-3 Possession Limits: There are no possession limits for pollock provided the vessel is fishing in state waters and does not have a federal permit allowing the harvest of pollock.

A. Vessels in possession of a federal permit allowing the harvest of pollock in federal waters may harvest pollock in state waters in the amount authorized to be possessed pursuant to federal regulations.

~~7.28.1-4 Transiting Provision – Vessels in possession of a federal permit allowing the commercial harvest of pollock may transit state waters in possession of pollock pursuant to applicable federal regulations and land the same if so permitted pursuant to Rhode Island State Law, so long as all of the fish harvesting gear on board the vessel is stowed while in state waters.~~

### 7.28.2 – Recreational

7.28.2-1 Recreational Fishing Year: The recreational pollock fishery shall operate on a May 1 through April 30 fishing year.

7.28.2-2 Minimum size: No person fishing recreationally shall land or possess any pollock measuring less than nineteen inches (19”) total length whether that fish was caught within the jurisdiction of this State or otherwise.

7.28.2-3 Possession Limits: There are no recreational possession limits for pollock provided the vessel is fishing in state waters and does not have a federal permit allowing the harvest of pollock .

A. Vessels in possession of a federal permit allowing the recreational

harvest of pollock in federal waters may harvest pollock in state waters in the amount authorized to be possessed pursuant to federal regulations.

~~7.28.1-4 Transiting Provision – Vessels in possession of a federal permit allowing the recreational harvest of pollock may transit state waters in possession of pollock pursuant to applicable federal regulations and land the same if so permitted pursuant to Rhode Island State Law, so long as all of the fish harvesting gear on board the vessel is stowed while in state waters. RIMF REGULATIONS [Penalty – Part 3.3 (RIGL 20-1-16)]~~

## **7.29 Witch Flounder (Grey Sole)**

### 7.29.1 – Commercial:

7.29.1-1 Commercial Fishing Year: The commercial witch flounder fishery shall operate on a May 1 through April 30 fishing year.

7.29.1-2 Minimum size: No person fishing commercially shall land or possess any witch flounder measuring less than thirteen inches (13”) total length whether that fish was caught within the jurisdiction of this State or otherwise.

7.29.1-3 Possession Limits: There are no possession limits for witch flounder provided the vessel is fishing in state waters and does not have a federal permit allowing the harvest of witch flounder.

A. Vessels in possession of a federal permit allowing the harvest of witch flounder in federal waters may harvest witch flounder in state waters in the amount authorized to be possessed pursuant to federal regulations.

~~7.29.1-4 Transiting Provision – Vessels in possession of a federal permit allowing the commercial harvest of witch flounder may transit state waters in possession of witch flounder pursuant to applicable federal regulations and land the same if so permitted pursuant to Rhode Island State Law, so long as all of the fish harvesting gear on board the vessel is stowed while in state waters.~~

### 7.29.2 – Recreational

7.29.2-1 Recreational Fishing Year: The recreational witch flounder fishery shall operate on a May 1 through April 30 fishing year.

7.29.2-2 Minimum size: No person fishing recreationally shall land or possess any witch flounder measuring less than fourteen inches (14”) total length whether that fish was caught within the jurisdiction of this State or otherwise.



7.29.2-3 Possession Limits: There are no recreational possession limits for witch flounder provided the vessel is fishing in state waters and does not have a federal permit allowing the harvest of witch flounder .

A. Vessels in possession of a federal permit allowing the recreational harvest of witch flounder in federal waters may harvest witch flounder in state waters in the amount authorized to be possessed pursuant to federal regulations.

~~7.29.1-4 Transiting Provision – Vessels in possession of a federal permit allowing the recreational harvest of witch flounder may transit state waters in possession of witch flounder pursuant to applicable federal regulations and land the same if so permitted pursuant to Rhode Island State Law, so long as all of the fish harvesting gear on board the vessel is stowed while in state waters. RIMF REGULATIONS [Penalty – Part 3.3 (RIGL 20-1-16)]~~

## **7.30 Yellowtail Flounder**

### **7.30.1 – Commercial**

7.30.1-1 Commercial Fishing Year: The commercial yellowtail flounder fishery shall operate on a May 1 through April 30 fishing year.

7.30.1-2 Minimum size: No person fishing commercially shall land or possess any yellowtail flounder measuring less than twelve inches (12”) total length whether that fish was caught within the jurisdiction of this State or otherwise.

7.30.1-3 Possession Limits: There are no possession limits for yellowtail flounder provided the vessel is fishing in state waters and does not have a federal permit allowing the harvest of yellowtail flounder.

A. Vessels in possession of a federal permit allowing the harvest of yellowtail flounder in federal waters may harvest yellowtail flounder in state waters in the amount authorized to be possessed pursuant to federal regulations.

~~7.30.1-4 Transiting Provision – Vessels in possession of a federal permit allowing the commercial harvest of yellowtail flounder may transit state waters in possession of yellowtail flounder pursuant to applicable federal regulations and land the same if so permitted pursuant to Rhode Island State Law, so long as all of the fish harvesting gear on board the vessel is stowed while in state waters.~~

### **7.30.2 – Recreational:**

7.30.2-1 Recreational Fishing Year: The recreational yellowtail flounder fishery shall operate on a May 1 through April 30 fishing year.

7.30.2-2 Minimum size: No person fishing recreationally shall land or possess any yellowtail flounder measuring less than thirteen inches (13”) total length whether that fish was caught within the jurisdiction of this State or otherwise.

7.30.2-3 Possession Limits: There are no recreational possession limits for yellowtail flounder provided the vessel is fishing in state waters and does not have a federal permit allowing the harvest of yellowtail flounder.

A. Vessels in possession of a federal permit allowing the recreational harvest of yellowtail flounder in federal waters may harvest yellowtail flounder in state waters in the amount authorized to be possessed pursuant to federal regulations.

~~7.30.1-4 Transiting Provision – Vessels in possession of a federal permit allowing the recreational harvest of yellowtail flounder may transit state waters in possession of yellowtail flounder pursuant to applicable federal regulations and land the same if so permitted pursuant to Rhode Island State Law, so long as all of the fish harvesting gear on board the vessel is stowed while in state waters. RIMF REGULATIONS [Penalty – Part 3.3 (RIGL 20-1-16)]~~

7.31 ~~7.12~~ Size, Possession, and Daily Limit Violations On Board Vessels: In any instance when there is a violation of the size, possession, or daily limit on board a vessel carrying more than one person when the catch is commingled, the violation shall be deemed to have been committed by the owner of the vessel, or the operator of the vessel, if the owner is not on board.

**7.32 VIOLATIONS FOR NON-COMPLIANCE:** ~~If the DFW and/or the Chief of the Division of Law Enforcement determine that there has been non-compliance with the provisions of these regulations or a permit agreement, the owner and/or operator of the permitted vessel shall be advised of such determination and the specific grounds therefore in writing by delivery of same by certified mail or by personal service upon the owner or operator in compliance with the requirements set out in Rule 4 of the Rhode Island Superior Court Rules of Civil Procedure. The determination shall specifically include notice that an opportunity for an impartial hearing is available before the Administrative Adjudication Division pursuant to R.I. Gen. Laws Chapter 42-17.7 relative to either or both the finding that sufficient evidence exists of non-compliance with the provisions of these regulations or the permit agreement as well as the termination of the permit and or the imposition of a penalty pursuant to RIGL 20-1-16 as well as the ineligibility to reapply for a permit for the subject vessel for the remainder of the Summer sub-period.~~

### 7.33 PENALTIES

7.33.1 Judicially imposed penalty for violations: Unless otherwise specifically provided, the violation of any law or rule or regulation relating to wild animals, wild birds, lobsters and fish, marine, freshwater and anadromous fisheries and shellfisheries shall be a misdemeanor, punishable by a fine of not more than five hundred dollars (\$500) or imprisonment for up to ninety (90) days, or both (RIGL §20-1-16)

7.33.2 Additionally, a person may be subject to the imposition of a administrative penalty pursuant to DEM's "Rules and Regulations Governing the Suspension/Revocation of Commercial Marine Fisheries, Shellfish Buyer, Lobster Dealer, Finfish Dealer, and Multi-purpose Dealer, licenses issued pursuant to Title 20 of RIGL "Fish and Wildlife".

## 7.34 APPEALS

7.34.1 Denial of a license or permit: Persons denied a license or permit may request an appeal as provided by RIGL Chapter 42-17.7 and pursuant to DEM's "Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters"

7.34.2 Enforcement Action: Any person affected by a decision of the Director for an enforcement action pursuant to these regulations may file and appeal in accordance with RIGL Chapter 42-17.7 and DEM's Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters.

## Rule 87. EFFECTIVE DATE

The foregoing rules and regulations "Rhode Island Marine ~~Fisheries Statutes and Regulations, Part VII, Minimum Sizes of Finfish~~" after due notice, are hereby adopted and filed with the Secretary of State this ~~10<sup>th</sup> day of January, 2014~~ to become effective 20 days from filing, unless otherwise indicated below, in accordance with the provisions of Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

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Janet L. Coit, Director  
Department of Environmental Management

Notice Given: ~~N/A~~ 02/21/2014  
Public Hearing: ~~N/A~~ 03/25/2014

Filing date: 01/10/2014  
Effective date: 01/08/2014

ERLID# 7638  
Technical Revision

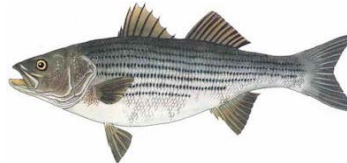


Rhode Island  
Department of Environmental Management

DIVISION OF FISH AND WILDLIFE

3 Fort Wetherill Rd  
Jamestown, RI 02835

401 423-1920  
FAX 401 423-1925



**Rhode Island Marine Fisheries Council, Striped Bass Advisory Panel Meeting  
Minutes**

January 28, 2014 – 6:00 PM  
URI/GSO Narragansett Bay Campus  
Coastal Institute Building, Large Conference Room  
South Ferry Road  
Narragansett, RI 02882

Ken Booth, Panel Chair	Alan Glidden <sup>A</sup>
Steven Anderson	Ray Jobin*
Jeff Barker	Mike Lanni*
Robert Beresford*	Joseph Macari III <sup>A</sup>
Bob Bryer	Ray Masciarelli
Edwin Cook <sup>A</sup>	Frank Pascale
Andy Dangelo*	Bart Wagner <sup>A</sup>
Jim Dzwil	Thomas Rosa, DFW Staff
Ron Enright*	Nicole Lengyel, DFW Staff

(\*Primary Advisory Panel member, <sup>A</sup>Alternate Advisory Panel member)

Ken Booth started the meeting by taking roll call of the advisory panel members and requesting we move agenda item #6 (yo-yo rigs) to item #2 because it has relevance to the 1<sup>st</sup> agenda item (stock status). Ray Jobin made a motion to change the agenda, a second was made by Andrew Dangelo, and a vote resulted in all in favor, motion passed. K. Booth stated that Nicole Lengyel of the RI Division of Fish and Wildlife (DFW or the Division) is the Division staff member for the STB AP and turned it over to N. Lengyel to start the presentation.

N. Lengyel began the presentation (see attached) by reviewing the current striped bass stock status taken from the ASMFC 2013 benchmark stock assessment which stated that the stock was not overfished and overfishing was not occurring. N. Lengyel briefly discussed recruitment and the striped bass young of year (YOY) index from the Chesapeake Bay which indicated a strong year class in 2011 but a decline thereafter. N. Lengyel informed the group that according to the

stock assessment, if the current level of fishing mortality (F) is maintained through 2013-2017, there will be a high probability that the spawning stock biomass (SSB) will decline to a level beneath the threshold leading to the stock being overfished. N. Lengyel reviewed the process occurring at the Atlantic States Marine Fisheries Commission (ASMFC) with the development of two draft addenda that will 1) set new reference points and 2) propose management options to reduce F. N. Lengyel urged anyone who had questions regarding the benchmark assessment or the process happening at ASMFC to contact her.

The next agenda item covered was the banning of yo-yo rigs in RI. N. Lengyel reviewed that this had been discussed at the 2013 AP meeting and turned into a larger mortality discussion which was referred to the RI Marine Fisheries Council (RIMFC). The RIMFC thought it best to wait until the 2013 benchmark assessment had been completed to take on the issue of mortality further. N. Lengyel explained that because the yo-yo rig discussion had turned into a larger mortality discussion, it did not make sense to proceed any further until the process currently occurring at the ASMFC with the development of two draft addenda was completed.

Next, N. Lengyel reviewed the 2013 RI striped bass fishery. The 2013 floating fish trap (FFT) fishery was discussed first followed by the general category (GC) fishery. A brief discussion occurred regarding the overage that occurred in the GC in the spring. It was stated that with reporting requirements for dealers and online reporting it seems that such a large overage in the 1<sup>st</sup> sub-period should not be happening every year. N. Lengyel explained that the overage was due to 1) late dealer reporting and 2) high daily catch rates at the end of the 1st sub-period. N. Lengyel explained that dealers with poor reporting in 2013 will not be allotted as many striped bass tags in 2014 until their reporting improves. Additionally, N. Lengyel explained that with the requirement to notice 48 hrs before closing the fishery in addition to the daily catch rates increasing the last few days the fishery was open, an overage resulted. K. Booth asked about going to a one-ticket system to have more real-time reporting data. N. Lengyel explained that this was still an interest being pursued at the ACCSP. N. Lengyel reviewed the recreational landings from MRIP next. She stated that the Division recognizes that the wave 3 landings are extremely high and our Recreational Biologist Kevin Smith was looking into it further.

The 2014 FFT season and quota allocation was discussed next. It was stated that the Division was proposing that the start of the FFT season be changed from January 1 to April 1. N. Lengyel explained this was merely to assist the Division with compliance requirements they have with the ASMFC, not to change the nature of the fishery and that landings typically occur after April anyway. Additionally, the Division was proposing that they be given the authority to rollover any unused FFT quota to the GC beginning on October 15. N. Lengyel clarified that this was not an automatic rollover, nor did it mean that all of any remaining quota would be rolled over. If FFT quota remained on 10/15, the Division would consider several factors and make a decision regarding a rollover. Alan Glidden stated that the FFT's were ok with the proposed changes. R. Enright asked why the GC fishery did not remain open in November and December if there was unused quota. N. Lengyel stated that the Division decided on a 5-day opening in November unsure what catch rates would be for the given time of year. After extremely low landings came in during that opening, the Division did not think a re-opening was warranted. A brief discussion then occurred regarding the unused FFT quota in 2013. A. Glidden updated the group stating that the unused quota resulted from one company not fishing in 2013. He also stated the future

of that company/FFT was uncertain at this point. Re-allocation of that companies share to the GC was briefly discussed. J. Macari made a motion for the Divisions proposed FFT management for 2014. A second was made by R. Jobin and a vote resulted in all in favor, motion passed.

The 2014 GC season and quota allocation was discussed next. It was stated that the Division was not proposing any changes for 2014. The group looked at what days of the week status quo openings would fall on. A motion was made by R. Enright for status quo and a second by R. Jobin. There was a discussion regarding how keeping it status quo for the opening dates could be confusing because June 6 was a Friday and the fishery is closed Friday/Saturday throughout. A brief discussion also took place regarding the potential changes that could take place in the MA fishery. N. Lengyel reviewed the MA public hearing notice and the proposed changes to the MA fishery. N. Lengyel then reviewed the timeline for the RIMFC process to illustrate that a decision regarding 2014 management could not be put off to another meeting after the MA public hearings. The group felt a decision had to be made and that if a drastic change in the MA fishery took place that there would be opportunity to comment or recommend changes to the RI season at the public hearing and RIMFC meeting. The motion on the table was modified to a June 8<sup>th</sup> opening and status quo of Sept. 8<sup>th</sup> opening. A second was made by J. Macari, a vote resulted in all in favor, motion passes.

The 2014 recreational fishery was discussed next. It was stated that the Division was not proposing any changes for 2014. A motion was made by Andrew Dangelo for status quo. A second to the motion was made by J. Macari. A vote among AP members resulted in all in favor, motion passes.

K. Booth asked if there was any other business. N. Lengyel again stated that anyone with questions regarding the stock assessment or ASMFC process could contact her.

R. Beresford made a motion to adjourn and a second was made by A. Dangelo. The meeting was adjourned at this point.

**RI Marine Fisheries Council Menhaden Advisory Panel Meeting  
Minutes  
February 19, 2014, 5:00 PM URI Bay Campus, Coastal Institute**

D. Monti, Chairman	B. Ferioli*
R. Jobin*	T. Hoxsie
J. Macari	T. Kutcher
M. Bucko*	
E. Cook*	N. Lengyel, DFW staff
	J. McNamee, DFW staff

(\*primary advisory panel member; <sup>A</sup> alternate member)

D. Monti began the meeting. He gave a brief outline of the agenda and then noted that the main goal of the meeting was to review the emergency regulations that had been filed by the DEM and develop some comments from the panel on these regulations. He then passed the meeting to J. McNamee of the Division of Fish and Wildlife (DFW). J. McNamee stated that he had a presentation (see attached) that covered the beginning agenda items. He began by noting that the Atlantic States Marine Fisheries Commission Menhaden Board had approved Amendment 2. This amendment would put some significant restrictions on the fishery. The other parts of the amendment were states allocation (quota) and the reporting requirements. As far as the current fisheries in RI waters, Ark Bait fished in RI waters but landed in MA, so these fish would not impact RI's quota. The main harvesters landing in RI were the floating fish traps. These gears were considered non-directed so these landings would be able to continue as long as they didn't land more than 6,000 pounds per day. There was also a technical addendum that had been approved. This addendum created the episodic event set aside. J. McNamee noted for the group that RI had submitted a memo to the ASMFC requesting access to the episodic event set aside program. This program allowed a state that opted in to harvest in state waters at 120,000 pounds per vessel per day from a set aside amount that was set aside for northern states that occasionally have high biomass levels that enter their state waters. If the set aside amount were not harvested, it was re-allocated to the fishery as a whole. J. McNamee noted that RI had opted in to the episodic event set aside program in 2013, but did not accrue any landings. Generally, the fishery performed well in 2013, and harvest was kept under the Narragansett Bay harvest cap. In addition, RI achieved its entire state waters allocation as well. J. McNamee concluded with some comments on the DFWs proposals for 2014. One additional element that was needed to enact the full requirements of Amendment 2 was a November 1 termination date for the episodic event set aside program. Any unused harvest from the episodic event program would go back in to the general coastwide pool on that date. The DFW was also requesting feedback on the designation of cast nets as a non-directed fishery.

D. Monti went to the group for discussion. R. Sousa stated that the state should enact a transiting provision so if he were fishing off NY, he would be able to pass through RI waters to land his fish in Fall River. J. McNamee stated that one of the provisions going to hearing in March was to generalize the transiting provisions to encompass all fisheries, so this would be accommodated in those changes. T. Hoxsie asked if cast nets were considered commercial or recreational. J. McNamee noted that it depended on what the person did with the harvested fish, if they sold them they were commercial, but there was a move at the ASMFC to make cast nets a non-directed fishery. To this point they had been considered directed.



The group then had a lengthy discussion about whether a commercial bass fisherman could have menhaden in possession while they were commercially fishing for striped bass when the Bay was closed. J. McNamee stated that this was a difficult one, but he thought they could as the menhaden were being used as bait and not being sold, but he thought this was a better question for legal counsel and enforcement.

D. Monti then noted that one additional proposal had been submitted from Save the Bay. He asked T. Kutcher to discuss the proposal (attached). The gist of the proposal was to close the Bay to purse seine fishing to allow menhaden to serve its ecological role. M. Bucko stated that the Save the Bay proposal made sense, but he felt the current management program found a balance between allowing the commercial fishery to continue in a controlled manner, and still leave some menhaden for its other ecological roles. He felt that there was some evidence of this in the Sulikowski work (Univ. of New England) that had been conducted in RI, as they saw some old fish in those samples. J. Macari also agreed with a lot of what was in the Save the Bay proposal. But agreed with M. Bucko that he felt the current management plan was a good compromise and had proven effective over the previous years. J. Macari made a comment that the Bay was actually too clean, and he felt this was one reason why menhaden did not go in to the Bay in large numbers anymore. He concluded with the idea that if some of the biomass wasn't removed, the Bay could incur some large fish kills, and that the fishery is historic and has some social value as well. E. Cook noted that since the new management went in to place he has heard far fewer complaints, so he took this as a sign that the program was working well.

**R. Jobin made a motion to maintain status quo. The motion was seconded.** R. Sousa voiced support for the motion stating that the program had worked OK in Ark Baits view. T. Hoxsie noted that closing the Bay was less important than controlling some of the other larger factors that are impacting this coastwide stock, like the large reduction and bait fisheries to our south. **The vote was unanimously in favor of the motion.**

J. Barker stated that the Save the Bay proposal should be brought forward for further discussion, at least to the RIMFC. The panel did not reach consensus on this comment.

M. Bucko stated that he agreed with the cast net proposal. There was discussion on this but no action was taken. M. Bucko went on to introduce a proposal to allow a small portion of the cap to remain in place so that small scale fishing could remain to continue to supply bait to bait shops. **He formed this in to a motion to drop the possession limit in the Bay to 6,000 lbs/day when fishing came within 100,000 lbs of the Bay cap. This was modified to state that the possession limit drop should occur at a level the DFW felt was reasonable,** due to a discussion between D. Beutel and J. McNamee stating that they did not think the menhaden model had a powerful enough resolution to determine when they were within 100,000 pounds of the cap. **The vote was unanimous to approve this motion.**

D. Monti adjourned the meeting.

# Summary of the Rhode Island Menhaden Fishery with Stock Status and ASMFC Amendment 2 Updates



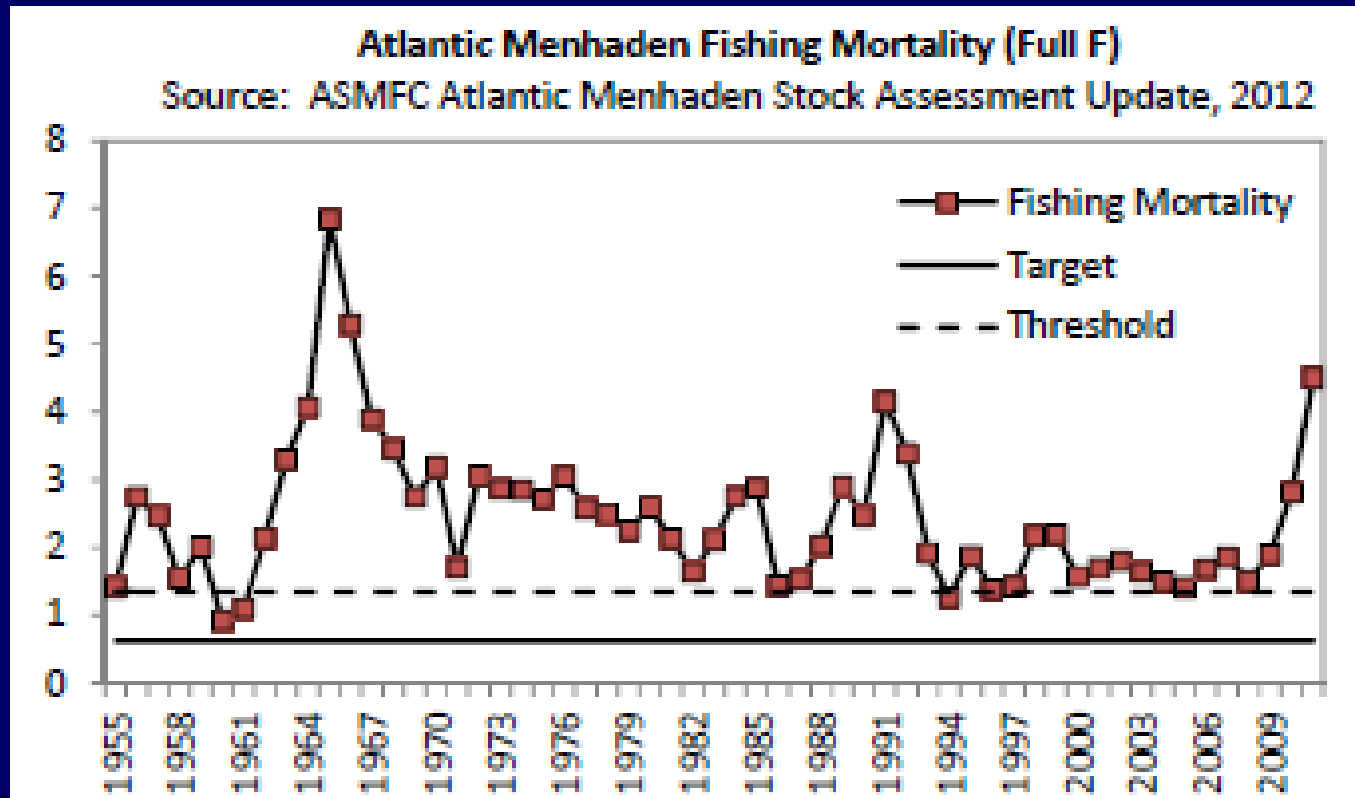
# 2012 Menhaden Coastwide Stock Status

- **The most recent stock assessment update for menhaden occurred in 2012.**
- **Fishing mortality and stock biomass estimates generated with a statistical catch at age model developed by Beaufort, NC marine fishery lab**
- **Forward projecting age structured model**
- **The stock status finding was: the menhaden stock may be overfished and overfishing is occurring.**



# 2012 Menhaden Coastwide Stock Status

- There were multiple issues found with the model and its output such as:
  - Retrospective pattern
  - Disagreement between survey indices and model
- Because it was an update, the stock assessment sub committee could not explore the causes of these issues



# Stock Status to Management

- ♦ **Menhaden stock assessment is currently being benchmarked, slated to be peer reviewed by SEDAR at the end of 2014**
- ♦ **With the stock assessment uncertainty, but some level of overfishing potentially occurring, Management Board initiated Amendment 2**



# Menhaden ASMFC Amendment 2

- Amendment 2 was approved during December of 2012
- Establishes a 170,800 MT TAC beginning 2013 and continuing until completion of, and Board action on, the next benchmark stock assessment (2014)
- TAC represents a 20% reduction from average of landings 2009-2011
  - approximately 25% reduction from 2011 levels
  - TAC was developed ad hoc, could not quantify quota due to stock assessment uncertainty
- Board also adopted new biological reference points for biomass based on maximum spawning potential (MSP)
- Goal is to increase abundance, spawning stock biomass, availability as forage
- Allocates TAC on a state-by-state basis based on landings history from 2009-2011 (revisited in 3 years)



# Menhaden ASMFC Amendment 2

- **Reduces the Ches Bay reduction harvest cap by 20%**
- **States required to close their fisheries when state-specific portion of the TAC has been reached**
- **Overages must be paid back the following year**
- **Provisions for the transfer of quota between states**
- **Includes bycatch allowance of 6,000 lbs for non-directed fisheries operating after state TAC reached**
- **Also establishes reporting requirements and bio monitoring**
- **Additional modifications were made during 2013 and 2014 including episodic set aside program and cast net fishery**



# Menhaden ASMFC Amendment 2 and RI Management

- RI received a very small allocation due to the years chosen for average catch
- Majority of purse seine landings occur in MA, not RI, even though fishing occurs here
- Because of this, the DFW believes the menhaden monitoring program continues to serve an important role for management in state waters
- In addition, Amendment 2 management has a coastwide perspective and does not account for Narr Bay considerations
- Final note, the FFT sector, who account for the majority of the RI landings are exempted in Amendment 2 as a non-directed fishery but are capped at 6,000 lbs





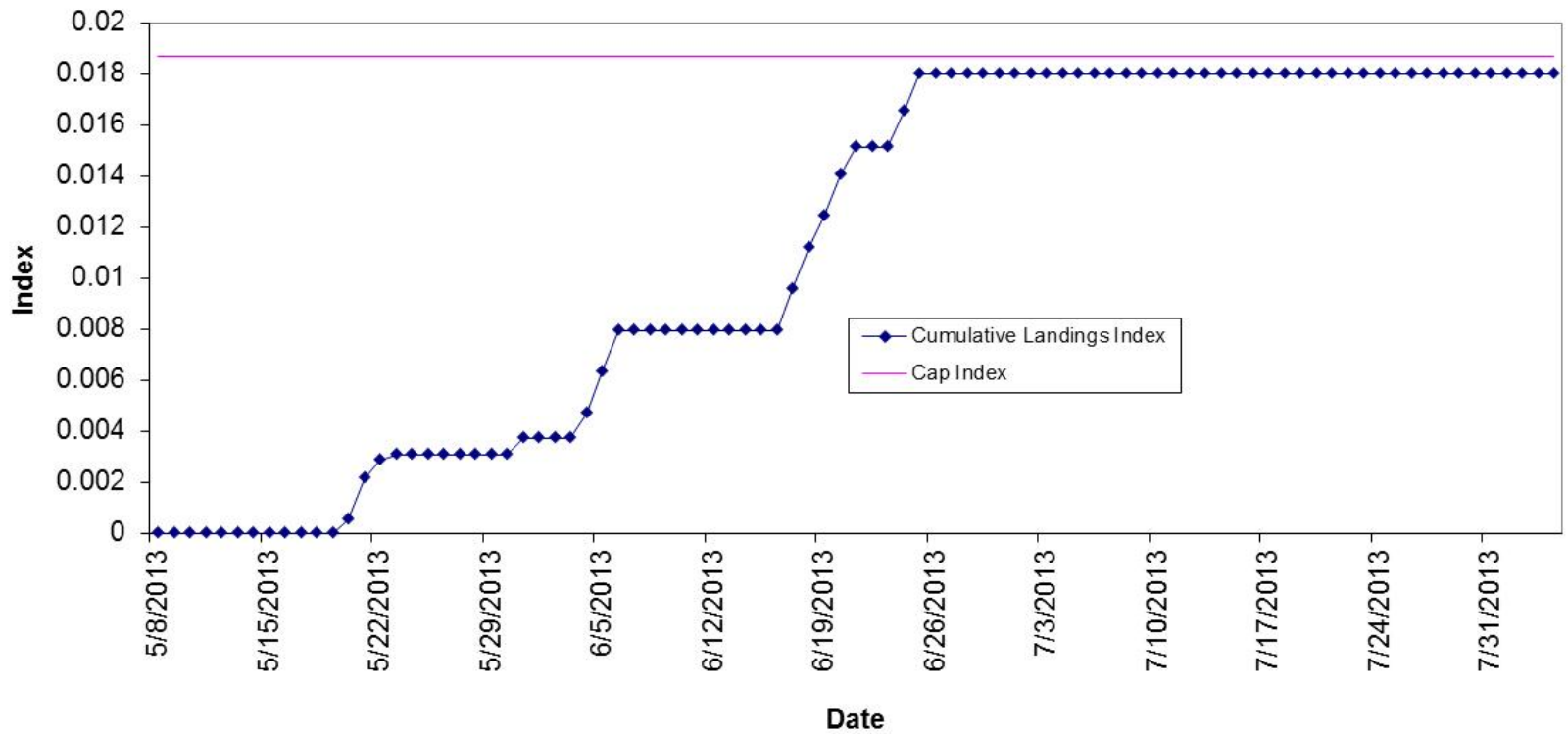
# 2013 RI Fishery

- Only one operation fulfilled requirements for fishing in Narr Bay in 2013
- After biomass levels were estimated and confirmed, fishing was allowed to commence on May 20, 2013
- The commercial bait fishery closed on June 10, 2013 in the Bay
- The commercial bait fishery reopened on June 17, 2013 in the Bay
- The commercial bait fishery closed on July 3, 2013 for the season in the Bay
- On July 28, 2013, RI met its state waters quota, therefore closed to all landings but the 6,000 lbs bycatch allowance
- On August 14, 2013, RI was accepted in to the episodic set aside program, so opened state waters outside of the Bay at 120,000 lbs



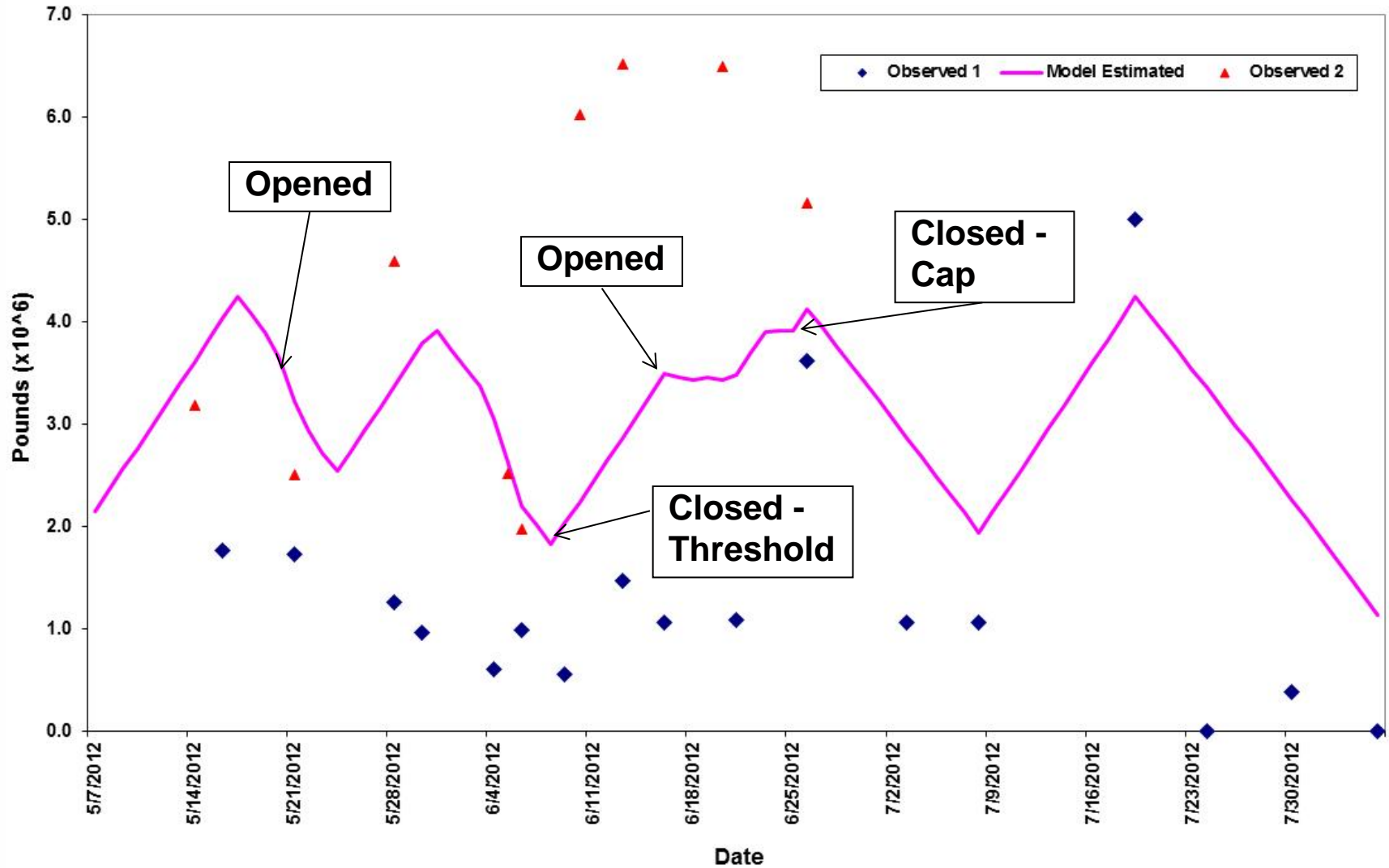
# 2013 RI Fishery

Landings vs Cap 2013



# 2013 RI Fishery

Observed and Model Estimated Spotter Index of Menhaden in Narragansett Bay in 2013



# Methodology for Monitoring Menhaden Abundance

- ♦ **RIDFW, created a depletion model for open populations to monitor menhaden abundance in close to real time**
- ♦ **Model uses several data sources:**
  - ♦ **Floating fish trap data for movement of fish in Narr Bay**
  - ♦ **Purse seine vessel landings data for fishery removal**
  - ♦ **Spotter plane data as index of absolute abundance in Bay**
  - ♦ **Helicopter overflights**



# Regulatory Structure for Monitoring Menhaden Abundance

- Estimate of abundance compared to an abundance cap
- Cap is set at 50% of the estimated total abundance in the Bay minus a 1.5 mlbs threshold
- Biomass in Bay must be over the threshold (>2 mlbs) to provide a level of exploitable biomass
- Landings remained under the cap in 2013 by less than 1 full possession limit, closures were triggered by biomass dropping below the 1.5 mlbs threshold and then meeting the fishery cap
- Closed areas; Prov River above Conimicut and Western GB



# Analysis of 2013 Program and Fishery

- ♦ Helicopter observations for school counts were begun in 2009, which continued through 2013
- ♦ The model will continue to be analyzed and improved as the dataset gets larger and sources improve
- ♦ It is evident that in years where biomass in Bay is low and/or fishing activity is low, modeling approach is weak
- ♦ Additional difficulties:
  - ♦ Conflicting estimates between contracted spotter and new spotter hired by Ark Bait
  - ♦ DFW chose to use both estimates with weighting
  - ♦ Interplay between RI program and Amendment 2 created complexity
  - ♦ Despite difficulties, program worked well in 2013



# Division of Fish and Wildlife Proposed Changes

- ♦ **DFW continues to work with spotter pilots to better standardize spotter information. Put flight contract out to bid in 2014**
- ♦ **One additional element needed to enact episodic event set aside program – November 1 termination date**
- ♦ **Would like feedback on designation of cast nets as non-directed fishery**
- ♦ **Points of clarification:**
  - ♦ **Biomass threshold is a static number year to year**
  - ♦ **Fishing cap is dynamic and changes year to year depending on magnitude of fish**
  - ♦ **Vessel hold capacity cert. will only be required of new entrants and/or new vessels**
  - ♦ **All other gear requirements will be in place in 2013**





February 14, 2014

Mr. David Monti, Chairman  
Atlantic Menhaden Advisory Panel  
Rhode Island Marine Fisheries Council  
State of Rhode Island and Providence Plantations

***Re: Proposal to Ban Purse Seining within Rhode Island State Waters***

Save The Bay proposes changes in Rhode Island's regulation of the commercial harvest of Atlantic menhaden based on the ecosystem services, ecological functions, and economic value to the public clearly outweighing any benefit gained by their industrial harvest from state waters. We urge you to recommend that the Rhode Island Department of Environmental Management (DEM) ban the commercial purse seine fishery for menhaden in Rhode Island State waters, and recommend to the RI Marine Fisheries Council and the Director of DEM that these changes are implemented before the 2014 season.

We understand that the Atlantic menhaden population is largely controlled by the collective management of the Atlantic states, and that the RI and MA fisheries represent a small proportion of the overall pressure on the species. However, we feel that **the multiple benefits provided by living menhaden easily justify protecting all fish that enter Narragansett Bay for the entire season.** And, because menhaden continually move in and out of the Bay, we feel that also protecting menhaden in our coastal State Waters is necessary to protect the Bay population.

We also understand that current DEM regulations recognize the ecosystem functions of menhaden as forage for certain game fish species, and that a standing biomass of 2,000,000 lbs. has been identified by DEM as sufficient to provide that function for striped bass and bluefish in Narragansett Bay. However, we contend that this regulation underestimates the ecological contributions of menhaden to the Narragansett Bay system, and does not consider several additional ecosystem functions and values that menhaden provide. Additionally, we question whether DEM resources should be spent managing a sector of the menhaden fishery that does not directly benefit the Rhode Island economy or quality of life, and in fact, may diminish both.

**Menhaden provide direct critical forage for a host of Bay species,** not just for our two most visible game fishes. Menhaden serve a keystone role of converting abundant, planktonic and detrital resources into edible biomass for numerous game and commercial fish species, lobsters, crabs, wading birds, diving ducks, osprey, and seals. These species provide economic, environmental, and cultural benefits for the entire Narragansett Bay community.

**Menhaden are an integral component in the food web of Narragansett Bay** and may affect important species *indirectly*. For example, as the preferred food source for striped bass, menhaden abundance plays a critical direct role in the abundance and health of this important game fish (Uphoff 2003, Walter et al. 2003). In southern New England, striped bass feed primarily on lobsters and rock crabs during the spring, shifting to menhaden in the summer and fall, when they are abundantly available (Nelson et al. 2006). If menhaden are not readily available, striped bass will focus on other species, including lobsters



(Walter et al. 2003; Nelson et al. 2006). It has been estimated that striped bass consume three times the numbers of lobsters taken by southeastern New England fisheries (Nelson et al. 2006). DEM has reported a precipitous decline in lobster recruitment in Narragansett Bay in recent years, while the Bay lobster fishery has collapsed. Lobster survival may also be *directly* affected by the abundance of menhaden in the Bay, as they feed on menhaden remains dropped by feeding finfish.

**Menhaden once spawned in Narragansett Bay.** Menhaden spawn in New England coastal waters and embayments. Their eggs and larvae provide food for fish larvae and mollusks, while young of the year menhaden directly graze on phytoplankton blooms and provide preferred forage for a host of fish and wading birds. Juvenile menhaden are also an important food source for commercial and game fish species such as striped bass, bluefish, weakfish, and summer flounder. However, since the mid-1970s, breeding in Narragansett Bay has disappeared (Gibson 2007). It is unclear what the cause of decline was or if it can be reversed. However, it stands to reason that increasing menhaden residence time and densities in the Bay could contribute to any management program aimed at spawning recovery.

**Menhaden can remove substantial nitrogen from Narragansett Bay.** Durbin and Durbin (1998) estimated that menhaden removed 476,000 lbs. of nitrogen (net) from Narragansett Bay in 1976. That amount is a significant proportion of the nitrogen budget of the Bay. For context, that is over eight times the amount of additional nitrogen that is expected to be removed yearly by a recent \$13-million upgrade to the Narragansett Bay Commission's Bucklin Point facility (NBC, unpublished data). The potential value that living menhaden can provide for nitrogen removal clearly outweighs their market value for bait or reduction.

**Menhaden can redistribute nutrients throughout the Bay.** Menhaden eat plankton from nutrient rich areas and deposit waste products in other areas. This process can redistribute nutrients, transferring nutrients from nutrient-rich to nutrient-poor surface waters (Durbin and Durbin 1998).

**The purse seine fishery provides little or no benefit to the public.** In fact, it delivers a net loss. For the last several years, a single purse seine participant has exploited RI waters in Narragansett Bay and has landed its catch in Massachusetts. The gains to the State of RI from licensing fees total about \$300 for this company to remove up to 120,000 lbs of menhaden daily. For this small fee, this fishery has been granted the right to reduce the nutrient removal benefits provided by menhaden, weaken a recreational fishery that contributes nearly \$180 million and 1,200 jobs to the RI economy, and directly diminish the ASMFC allocation available to RI recreational and commercial fishermen to only 78,000 lbs. of menhaden yearly (a direct result of the company fishing in Narragansett Bay and landing in MA). As a result, a single, partial haul from a purse seiner landed in Rhode Island will close the fishery to all for the season. Gibson (2007) cites RIGL 20-3.2-1(e) as a guiding principle of DEM's menhaden management. The law states "*Rhode Island has historically managed its marine fisheries for the benefit of the people of the state, as an ecological asset, and as a source of food, income, and recreation*". The current menhaden purse seine regulations do not effectively promote those benefits, and in fact, harm several.

**DEM manages the Narragansett Bay menhaden fishery at RI taxpayer expense;** this includes weekly helicopter surveys, and staff time to compile and analyze the data, send out advisories, and report on findings. DEM has reported that this management program is not sustainable (Gibson 2007). Closing the purse seine fishery would substantially reduce the costs of menhaden management.

**Most other Atlantic states have banned or restricted purse seining for menhaden** in all or parts of their state waters, recognizing the damaging effects of this practice on local ecosystems and communities. New Hampshire, Connecticut, Delaware, Maryland, and North Carolina prohibit purse seining in all state

waters; Massachusetts prohibits mobile gear in Buzzards Bay and seasonally around Cape Cod, and New York bans purse seining in Long Island Sound. Narragansett Bay and our surrounding state waters are no less worthy of such protection.

**The health of Narragansett Bay depends on DEM implementing ecosystem-based management.**

Aquatic species exist in a complex food web in which the status of every species is dependent on its competitive and predatory interactions with several other species. NOAA has recently recognized the importance of ecosystem interactions in fisheries management in their latest Draft Five-Year Strategic Plan. Menhaden's role as a keystone species is an exemplary testament for prudent ecosystem-based management in marine waters. While the recovery of the larger population of Atlantic menhaden is being pursued through the collective management of the Atlantic states, the Narragansett Bay community will not enjoy the benefits of species recovery unless a framework is put in place to ensure that abundant menhaden remain in Narragansett Bay throughout the season. We urge DEM to choose to manage menhaden for the recovery of Narragansett Bay and for the multiple benefits and services that menhaden provide to the public, and not for the profit of very few at the loss of all others.

We propose that it is DEM's obligation to immediately prohibit purse seining in Rhode Island State waters in the clear interest of the public. Thank you for considering this proposal. Should you have any questions, please do not hesitate to contact me at 272-3540 x116.

Respectfully submitted,



Tom Kutcher  
Narragansett Baykeeper

CC:

Janet Coit, Director of DEM

Mark Gibson, Deputy Chief, DEM Division of Fish and Wildlife

Literature Cited

- Durbin, A. G., & Durbin, E. G. (1998). Effects of menhaden predation of plankton populations in Narragansett Bay, Rhode Island. *Estuaries*, 21(3), 449-465.
- Gibson, M. (2007). Estimating seasonal menhaden abundance in Narragansett Bay from purse seine catches, spotter pilot data, and sentinel fishery observations. Rhode Island Department of Environmental Management, Division of Marine Fisheries, Jamestown, RI.
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- Uphoff, J. H. (2003). Predator-prey analysis of striped bass and Atlantic menhaden in upper Chesapeake Bay. *Fisheries Management and Ecology*, 10(5), 313-322.
- Walter, J. F., Overton, A. S., Ferry, K. H., & Mather, M. E. (2003). Atlantic coast feeding habits of striped bass: a synthesis supporting a coast-wide understanding of trophic biology. *Fisheries Management and Ecology*, 10(5), 349-360.

**RI Marine Fisheries Council**  
 Scup/Black Sea Bass Advisory Panel  
 Meeting Minutes  
 February 19, 2014, 7:00 PM  
 URI Bay Campus, Coastal Institute

W. Macintosh, Chairman	C. Donilon
F. Blount*	J. Barker
P. Heaney	D. Monti
R. Tellier	E. Cook
S. Medeiros	
R. Ballou, RIDEM	J. McNamee, DFW staff

(\*primary advisory panel member; ^ alternate member)

W. Macintosh began the meeting. He stated that J. McNamee of the RI Division of Fish and Wildlife (DFW or Division) had a presentation which covered the first several agenda topics and was broken in to a scup section followed by a black sea bass section. He stated that after each section of the presentation the panel would discuss any proposals they may have for recreational management for scup or black sea bass in 2014. He noted that there was not a quorum present therefore they would not vote on any proposals that came forward, but the discussion and comments the panel would generate were still useful.

J. McNamee began the DFW presentation with a discussion about stock status for scup. The stock was rebuilt and overfishing was not occurring. He then went over the fishery performance in RI in 2013. The fishery went well in 2013. Given the high coastwide quota and harvest targets for scup in 2013, and the fact that the preliminary indications were that the recreational fishery would have an underage, managers from the northern region (scup is managed through a regional approach for the recreational fishery rather than state by state) decided to remain at status quo for 2013. J. McNamee concluded by stating that the DFW was recommending status quo.

W. Mackintosh asked the group if they had any questions or if the group wanted to make any additional proposals. **S. Medeiros stated that RISAA approved of the special area provisions (designated sites that allowed for a smaller minimum size of scup), and wanted to see them expanded in 2014. He suggested some additional sites that could be added including Fort Adams, the West Wall at the Harbor of Refuge, Ft Wetherill, and another upper Bay site.** He felt that the DFW could do a better job of promoting the program, many people did not even know about it. **The group discussed this and the consensus was to keep the sites limited to areas with no boat ramps, but in general the group supported the expansion of this program.**

J. McNamee then went through a discussion about the black sea bass fishery. The stock was rebuilt and overfishing was not occurring according to the only peer reviewed stock assessment available, but J. McNamee then went on to describe the situation that occurred with the benchmark assessment, the result of which was the assessment was rejected. He noted that he was optimistic that a new assessment would be initiated soon. He then went over the fishery performance in RI in 2013. The fishery went over the harvest target in 2013, and this was a year where RI was operating under Addendum XXII, which implemented a regional management

plan. The fishery exceeded the target by roughly 3.2%, and therefore this was the potential reduction that would be needed. J. McNamee stated that there was currently an ASMFC Addendum out for public comment and this Addendum was seeking to set up either a state by state or regional option for black sea bass management in 2014, similar to what was in place for 2013. J. McNamee concluded by stating that the DFW would approve any option that remained within the reduction strategy as developed by ASMFC, but depended on the approach taken by the management board, i.e. regional or state by state. He concluded by asking for the advisory panel advice on how best to take reductions in this fishery.

W. Mackintosh went to the group for discussion. **In general, the panel preferred a later start date as opposed to ending the season early or decreasing the bag limit. The group went so far as to say they were opposed to the early closure, because this was a very valuable time of the year for charter boats fishing for black sea bass.**

W. Mackintosh adjourned the meeting.

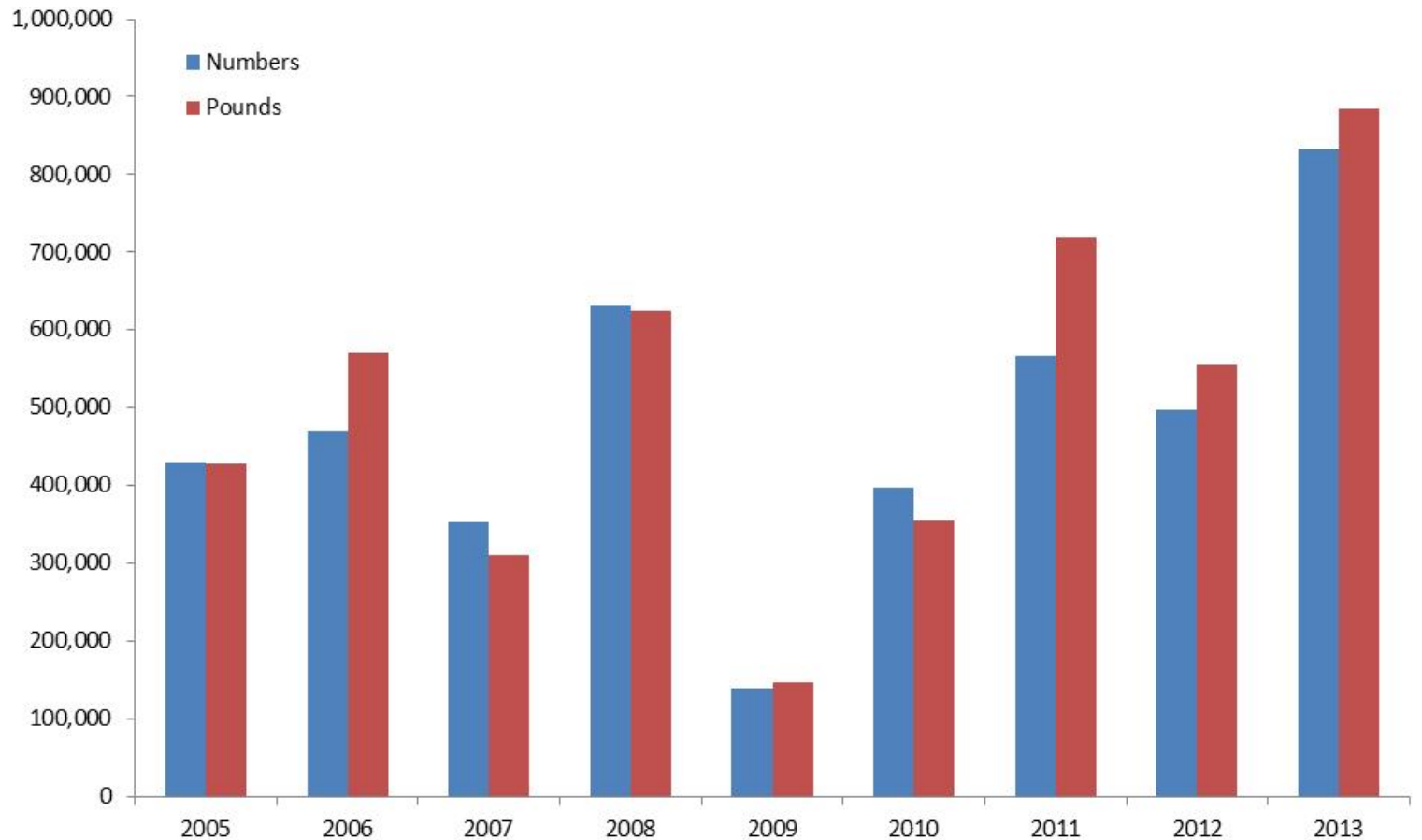


# Summary of the Rhode Island Recreational Scup and Black Sea Bass Fisheries



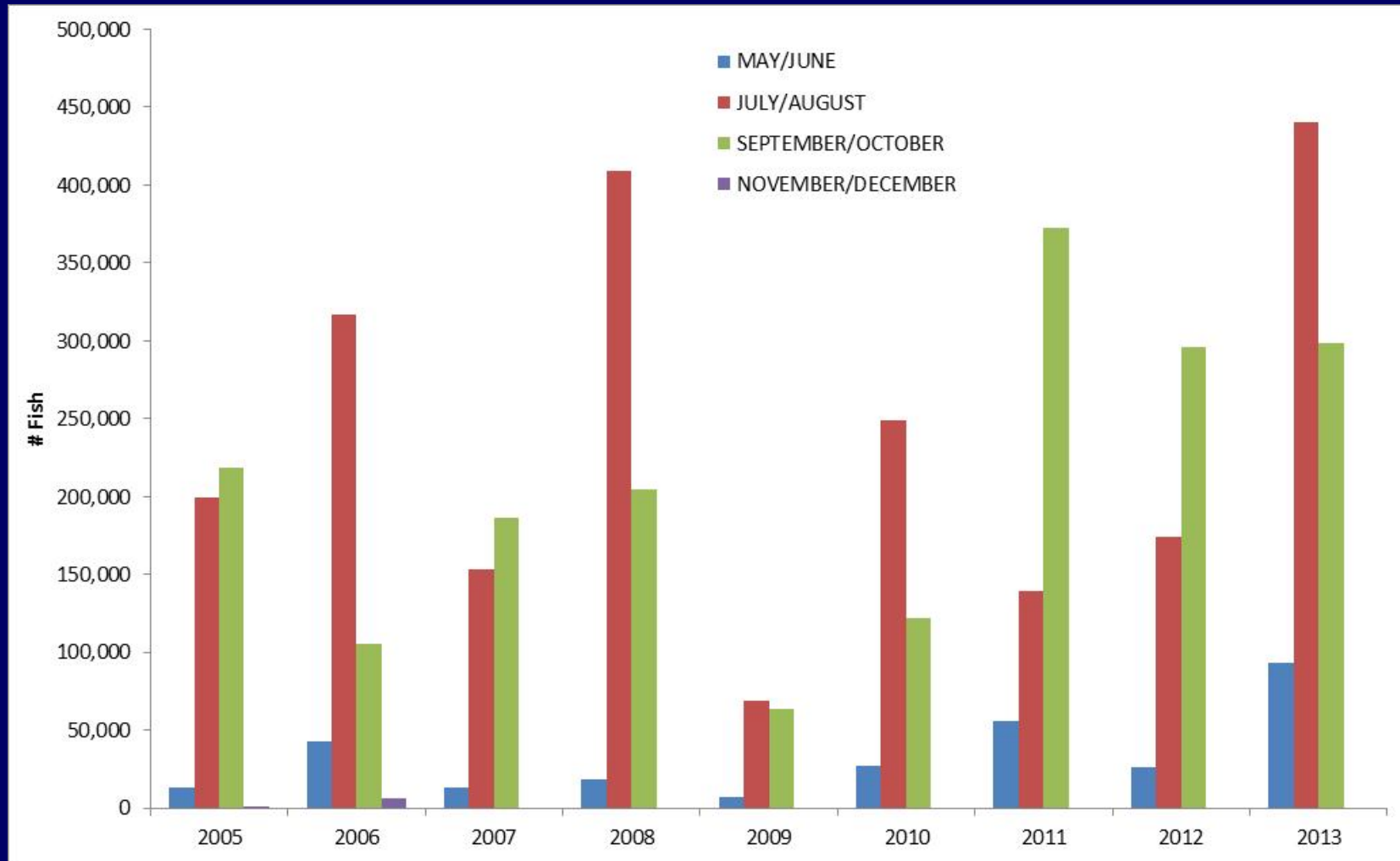
# Recreational Harvest - Scup

**\*Note: 2013 data preliminary, contains all waves**



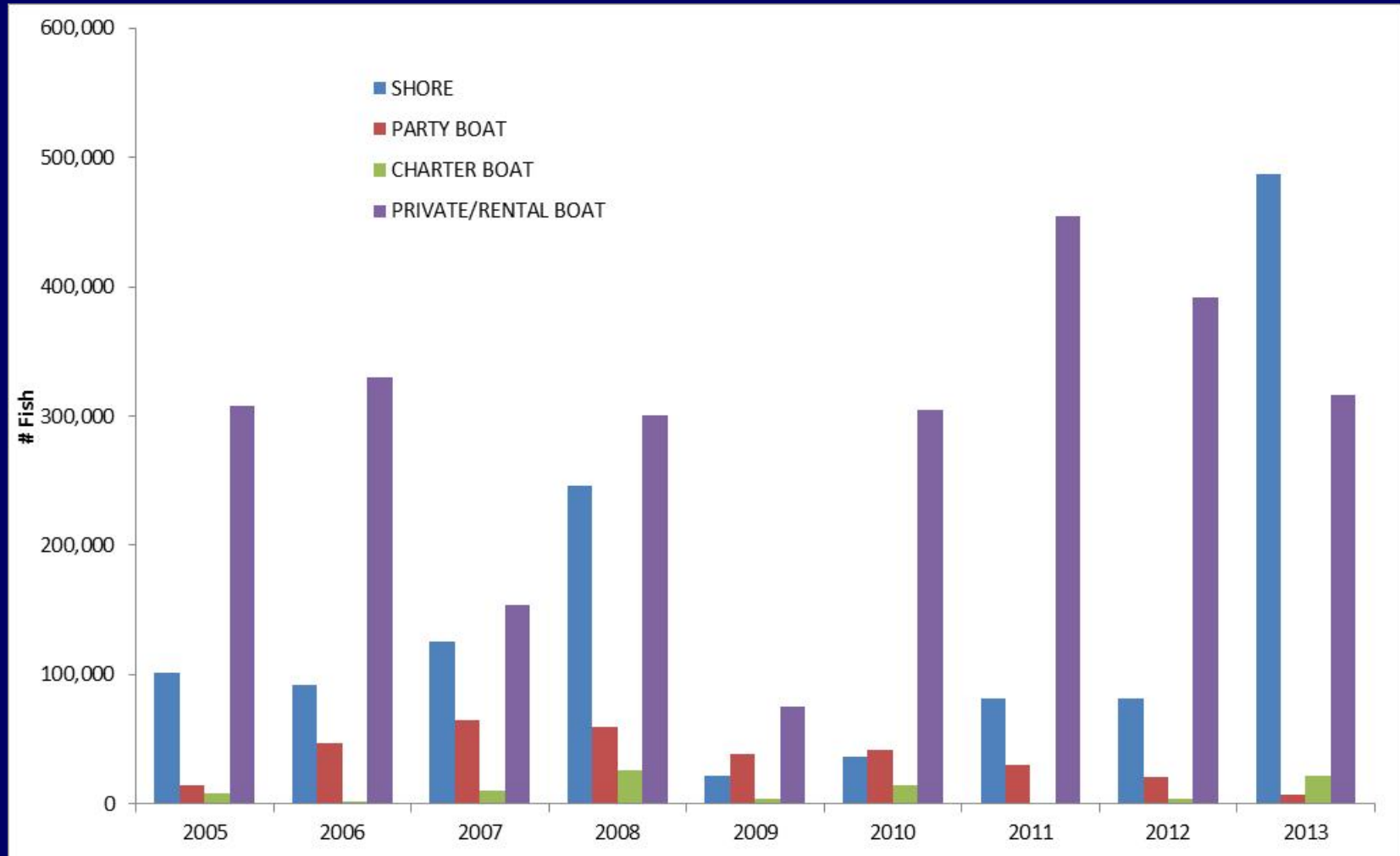
# Recreational Harvest By Wave - Scup

**\*Note: 2013 data preliminary, contains all waves**



# Recreational Harvest By Mode - Scup

**\*Note: 2013 data preliminary, contains all waves**





# Rhode Island Recreational Fishery Performance - Scup

- ◆ Landings and targets are analyzed on a regional basis in the scup fishery. Our region is MA – NY
- ◆ The landings target for 2013 for this region was 6,781,019 fish
- ◆ Preliminary landings in 2013 for the region are 4,809,691 fish
- ◆ This is approximately a 29% underage



# Stock Status - Scup

- ◆ There was no update done in 2013 for scup
- ◆ The fishing mortality rate estimated for 2011 is 0.034, which is below the fishing mortality threshold reference point  $F_{40\%}$  (0.177).
- ◆ Spawning stock biomass was estimated to be 190,424 mt in 2011, which is above the biomass target of 92,044 mt ( $SSB_{40\%}$ ).
- ◆ The stock is considered rebuilt and the stock is not considered overfished and is not currently experiencing overfishing.
- ◆ Quotas and harvest targets were set through 2015:
  - ◆ 2014 = 7.03 mlbs coastwide
  - ◆ 2015 = 6.6 mlbs coastwide



# 2013 Rhode Island Scup Recreational Measures

- ◆ **Party/Charter:**
  - ◆ **Minimum size = 10"**
  - ◆ **Season: May 1 – August 31 at 30 fish**
  - ◆ **Season: September 1 – October 31 at 45 fish**
  - ◆ **Season: November 1 – December 31 at 30 fish**
  
- ◆ **General category**
  - ◆ **Minimum size = 10"**
  - ◆ **Possession Limit of 30 fish**
  - ◆ **Open Season: May 1 – December 31**
  
- ◆ **Special Area Provisions (India Pt, Conimicut Pt, Stonebridge)**
  - ◆ **Minimum size = 9"**
  - ◆ **Possession Limit of 30 fish**
  - ◆ **Open Season: May 1 – December 31**



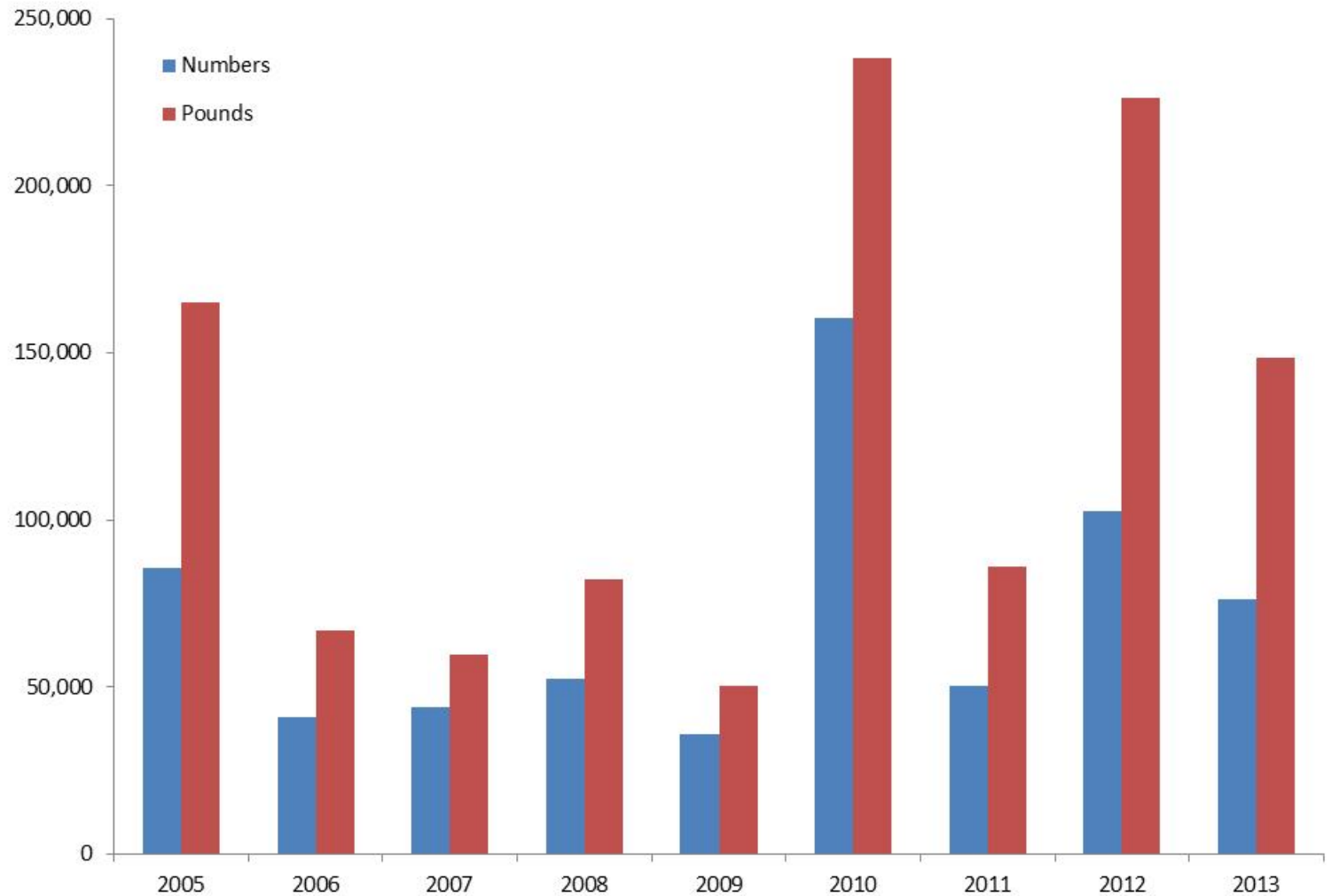
# Division of Fish and Wildlife Proposed Changes

**The RI Division of Fish and Wildlife will recommend an option derived collaboratively with the Northern Region partners of status quo for 2014**



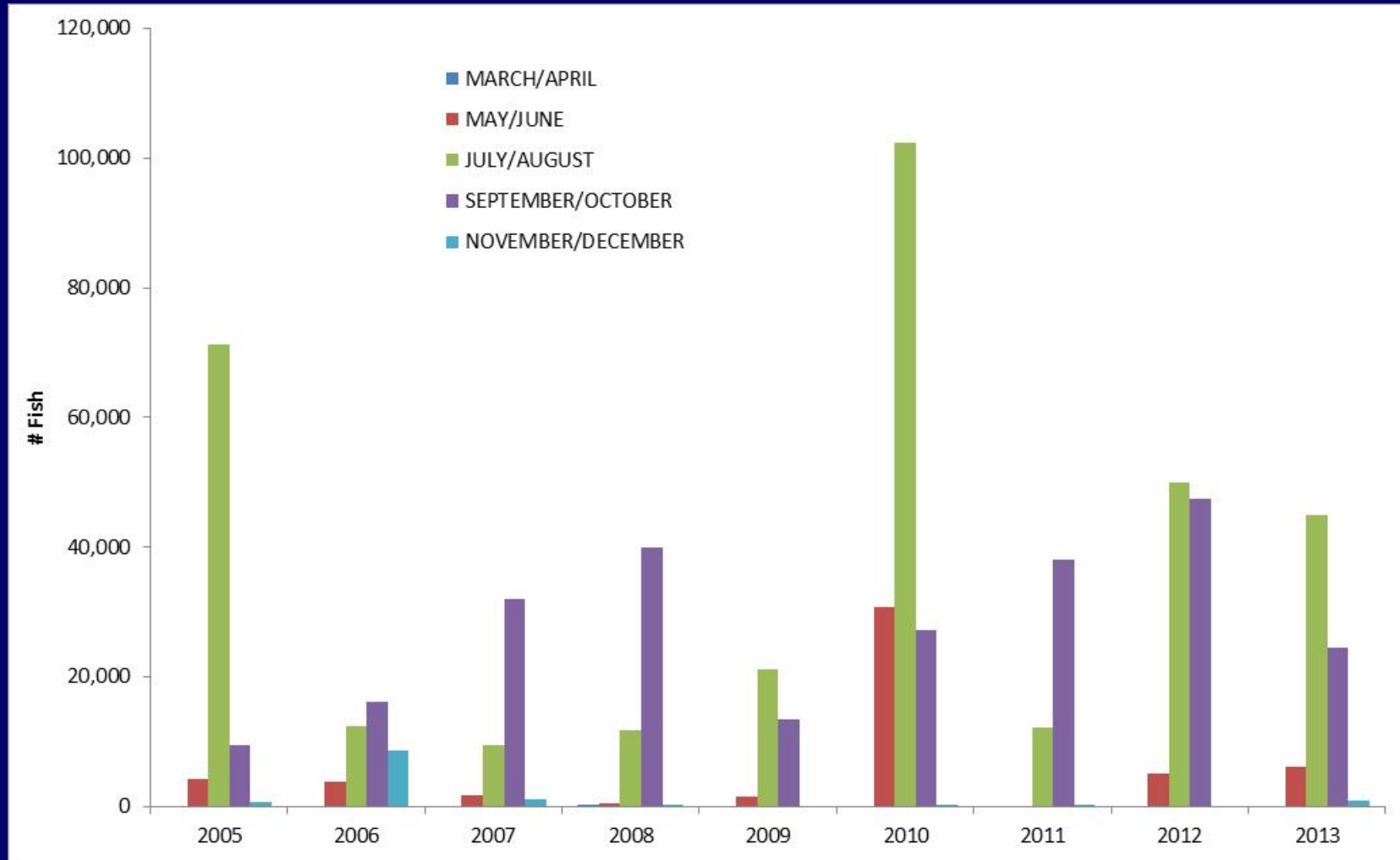
# Recreational Harvest - Black Sea Bass

\*Note: 2013 data preliminary, contains all waves



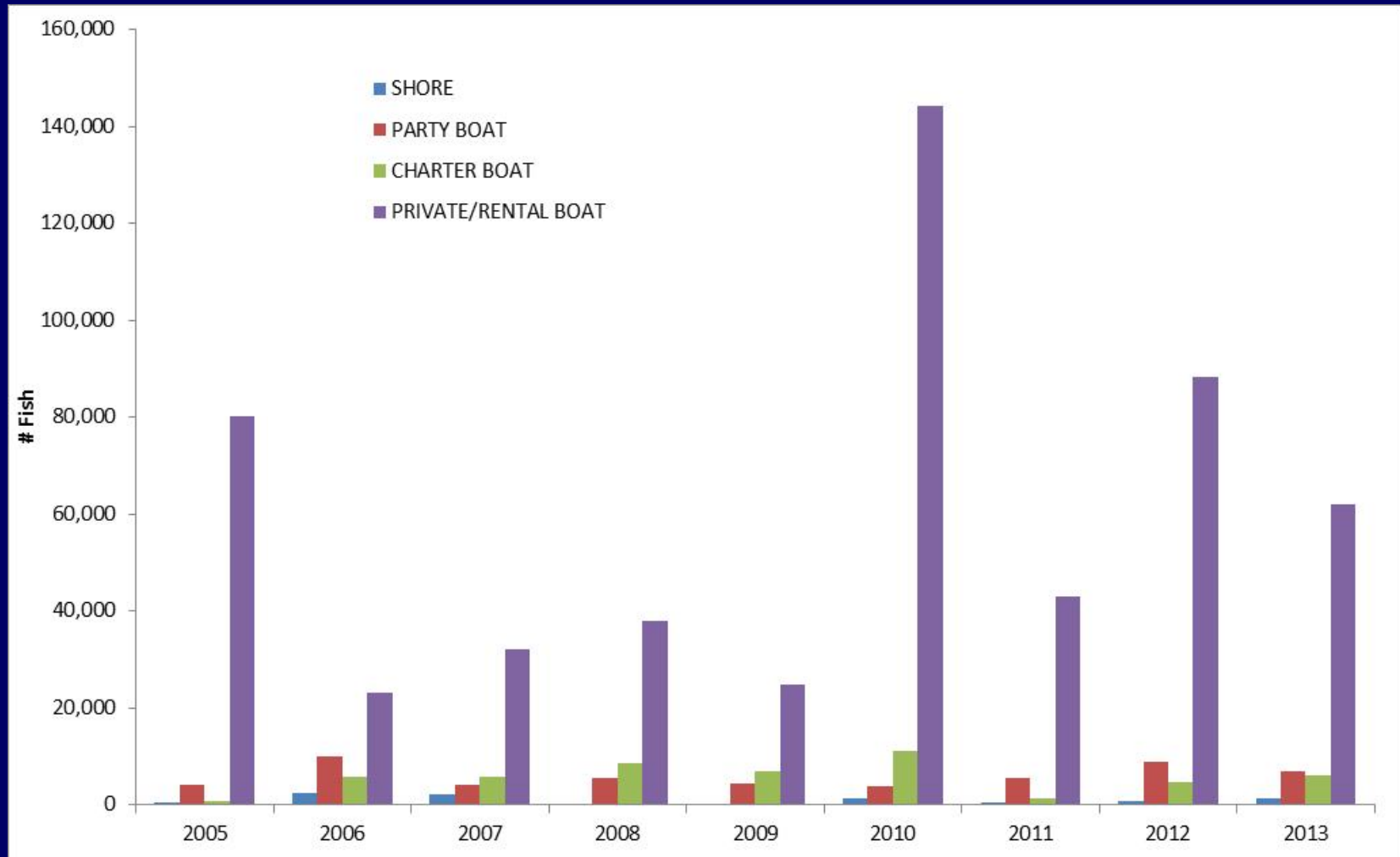
# Recreational Harvest By Wave – Black Sea Bass

\*Note: 2013 data preliminary, contains all waves



# Recreational Harvest By Mode – Black Sea Bass

\*Note: 2013 data preliminary, contains all waves



# Rhode Island Recreational Fishery Performance – Black Sea Bass

- ◆ Landings and targets were analyzed on a coastwide basis in the recreational Black Sea Bass fishery until 2011
- ◆ The landings had been at or under harvest targets since 2002 until 2009, where the harvest target was exceeded by 104%
- ◆ Addendum XXI set forth state-by-state measures allowing the southern states to remain at status quo regulations and allowing northern states to tailor their reductions in a way that best suited each individual state
- ◆ Similar Addenda have been in place since 2011 and will be in 2014 as well
- ◆ RI will need to meet a 3.2% reduction in 2014





# Stock Status – Black Sea Bass

- ◆ **The current spawning stock size is at or above the biomass goal based on both assessment models.**
- ◆ **Because of the rejection of the benchmark assessment, and the fact that the peer review panel did not have time to review the updated SCALE model, the stock assessment defaults back to the original SCALE configuration.**
- ◆ **Black sea bass was going to have an operational assessment performed on it in 2013, but at the meeting it was deemed unnecessary given the likelihood that SSC would not accept results**
- ◆ **Slated for a benchmark in 2014, but this will not occur unless new modeling approach is brought forward**



# 2013 Rhode Island Black Sea Bass Recreational Measures

- ◆ **All Modes:**
  - ◆ **Minimum size = 13"**
  - ◆ **Season:**
    - ◆ **June 15 – August 31 at 3 fish**
    - ◆ **September 1 – December 31 at 7 fish**



# Division of Fish and Wildlife Proposed Changes

The RI Division of Fish and Wildlife will recommend any option establishing restrictions that will meet approval by ASMFC

The Division would like some feed back on where these restrictions should be taken (season, bag limits) though would like to go on record to state that increasing the minimum size should be avoided

## Potential options:

1. Start fishery June 22
2. Drop fall bag to 5 fish
3. End fishery October 28th



RI Marine Fisheries Council Summer Flounder Advisory Panel Meeting Minutes  
February 20, 2014  
URI Bay Campus, Coastal Institute

R. Hittinger, Chairman	M Bucko*
D. Fox <sup>A</sup>	E. Cook*
N. Lazar*	F. Blount*
S. Anderson	J. Barker
G. Latos	P. Heaney
D. Monti	R. Bellavance
C. Donilon	S. Medeiros
R Tellier	J. Taylor
J. Hovanesian	D. Valerin
R. Ballou - RIDEM	J. McNamee, DFW staff

(\*primary advisory panel member; <sup>A</sup> alternate member)

R. Hittinger began the meeting. He stated that J. McNamee of the RI Division of Fish and Wildlife (DFW or Division) had a presentation which covered the first several agenda topics. R. Hittinger stated that after the presentation the panel would discuss any proposals they may have for recreational management for summer flounder in 2014.

J. McNamee began with a discussion about stock status for summer flounder. The stock was rebuilt and overfishing was not occurring, though the stock has now dropped back below the biomass target. The summer flounder stock went through a benchmark assessment in 2013, and the benchmark passed peer review. He then went over recreational fishery performance in RI in 2013. The fishery went well in 2013 and RI came in under their harvest target, which normally would have allowed for a small liberalization in 2014 (~10%). In 2013 though, the ASMFC Summer Flounder Management Board approved Addendum XXV to the Summer Flounder Fishery Management Plan. This addendum establishes regional recreational management for 2014, instead of state by state which had been the process before. The approved summer flounder regions are Massachusetts and Rhode Island; Connecticut through New Jersey; Delaware through Virginia; and North Carolina. As stated by the board, the addendum was initiated to address a concern that current management measures were not providing recreational fishermen equitable harvest opportunities along the coast. Under this approach, all states within a region are required to have the same possession limit, size limit, and season length. The goal is for the regions to collectively achieve, but not exceed, the recreational harvest limit for the coast. This adaptive regional management approach has been approved for the 2014 fishing year only. J. McNamee concluded with four options that would meet the metrics for the RI & MA Region as noted above:

1. **Min size = 17"; season = 132 days; bag limit = 5 fish**
2. **Min size = 17"; season = 132 days; bag limit = 8 fish**
3. **Min size = 16.5"; season = 132 days; bag limit = 3 fish**
4. **Min size = 16.5"; season = 132 days; bag limit = 5 fish**

R. Hittinger went to the panel for discussion. M. Bucko asked why the recreational harvest limit (RHL) was only 200,000 fish for the two state region of RI and MA. J.

McNamee noted that the various regions were adjusted so that all of the regions had as similar of regulations as possible, which adjusted the regional RHLs from what they would have been if you simply added up the previous state by state RHLs. He went on to note that even though there were regions, each state was still accountable for its previous state by state conservation equivalency RHL. D. Fox and D. Monti asked clarifying questions about how the addendum would work under various scenarios. The gist of the discussion was that it was risky to adopt regulations that would dramatically increase the harvest in RI.

N. Lazar noted that one positive aspect of the regions was that it improved the harvest estimates of MRIP above what it was for a single state alone. E. Cook asked about additional options. J. McNamee stated that other options could meet the required metrics, but he had developed a range to give the panel something to review.

D. Fox stated that RI would be crazy to go along with the regional approach. He felt it was very risky and could create impacts beyond the recreational fishery, namely it could impact the commercial fishery as well.

F. Blount stated that MA would probably be willing to go to 17", but they would want to increase the bag limit. Despite that, he recommended status quo for RI as he was nervous about dropping the minimum size a whole inch. S. Medeiros agreed and felt they should try to stay as close to status quo as possible. J. Barker also agreed with remaining at status quo as the best approach for RI.

R. Bellavance asked about how much impact there might be for dropping the minimum size an inch. J. McNamee showed some of the calculations, but it would be a significant increase. N. Lazar suggested adopting the region but then implement a more restrictive management plan, which had been allowable in the past. J. Barker noted that we were under our harvest limit so he did not think RI should have to take any cuts, we had been good stewards of the resource both in the previous year and for several past years with very conservative management.

**M. Bucko made a motion to remain at status quo and to encourage MA to also adopt their status quo regulations. The motion was seconded.**

R. Hittinger asked for discussion on the motion. R. Bellavance stated he was opposed to any regulation that adopts different regulations for RI and MA since customers may decide to go to MA. D. Fox supported the motion and stated that RI should draw a hard line as he feared the precedent that RI would be setting as this could then go in to commercial summer flounder and then other species. N. Lazar supported the motion.

**F. Blount made a motion to table the previous motion. This motion was seconded. The vote on the motion to table was 4 to approve and 1 abstention.**

**F. Blount made a motion to go in with the highest minimum size, bag, and a season from May 10 – September 15. The motion was seconded. The vote was 4 to approve and 1 abstention. The motion passed.**

There was an additional proposal offered for management. The proposal was called the

fish for the future proposal (attached). R. Hittinger asked for discussion on the proposal and R. Bellavance discussed it. F. Blount feared that if this goes forward to the summer flounder management board, it could weaken the argument being made for the management idea the panel just voted on. P. Heaney asked about some of the program logistics. D. Monti gave his perspective as a member of the previous program that used RSA. He liked the program, it worked well for his business, and he felt it was a highly accountable program that produced many conservation benefits.

F. Blount asked a question about whether if the minimum size went down for the general recreational fishery if the proposal was still attractive. R. Bellavance stated that his answer was yes because there idea was to prove the concept with this pilot program.

E. Cook stated that RISAA was opposed to the proposal and read a statement developed by RISAA (attached). M. Bucko stated that he supported the program. He thought it was progressive and produced good data. He did state that the program had a serious perception problem though. He brought up a point about MRIP sampling and how the program would deal with that, and the potential problems the program could create if one of the program boats were sampled. He did feel that if the pilot was a stepping stone for a larger program for the whole mode, he was supportive. R. Bellavance stated that they were intentionally keeping it small to test the concept, but if it proved to be a benefit and manageable, he thought it could be applied to the whole mode. P. Heaney supported it if the idea was to expand it.

F. Blount continued to be concerned that it would impact the options discussed earlier in the meeting. J. McNamee stated that the concept was that they would still be fishing for the same number of fish, just taking them in a different way, so he would make that point to the TC when they reviewed the program. In other words, it should not impact the overall harvest.

D. Fox did not support the program because he felt sectors had not worked well on the commercial side and he also did not like the idea that a small group would be given a possible advantage over other groups.

N. Lazar liked the program because it would develop a program that was more like a census rather than collecting the data through the traditional MRIP avenue.

F. Blount asked if the fish were transferable and if so, could one boat end up with all the fish. R. Bellavance said yes but that this was not likely because it was not pragmatic.

**F. Blount made a motion to move the proposal forward to the RIMFC for further discussion. The motion was seconded. The vote was 4 to approve and 1 abstention.**

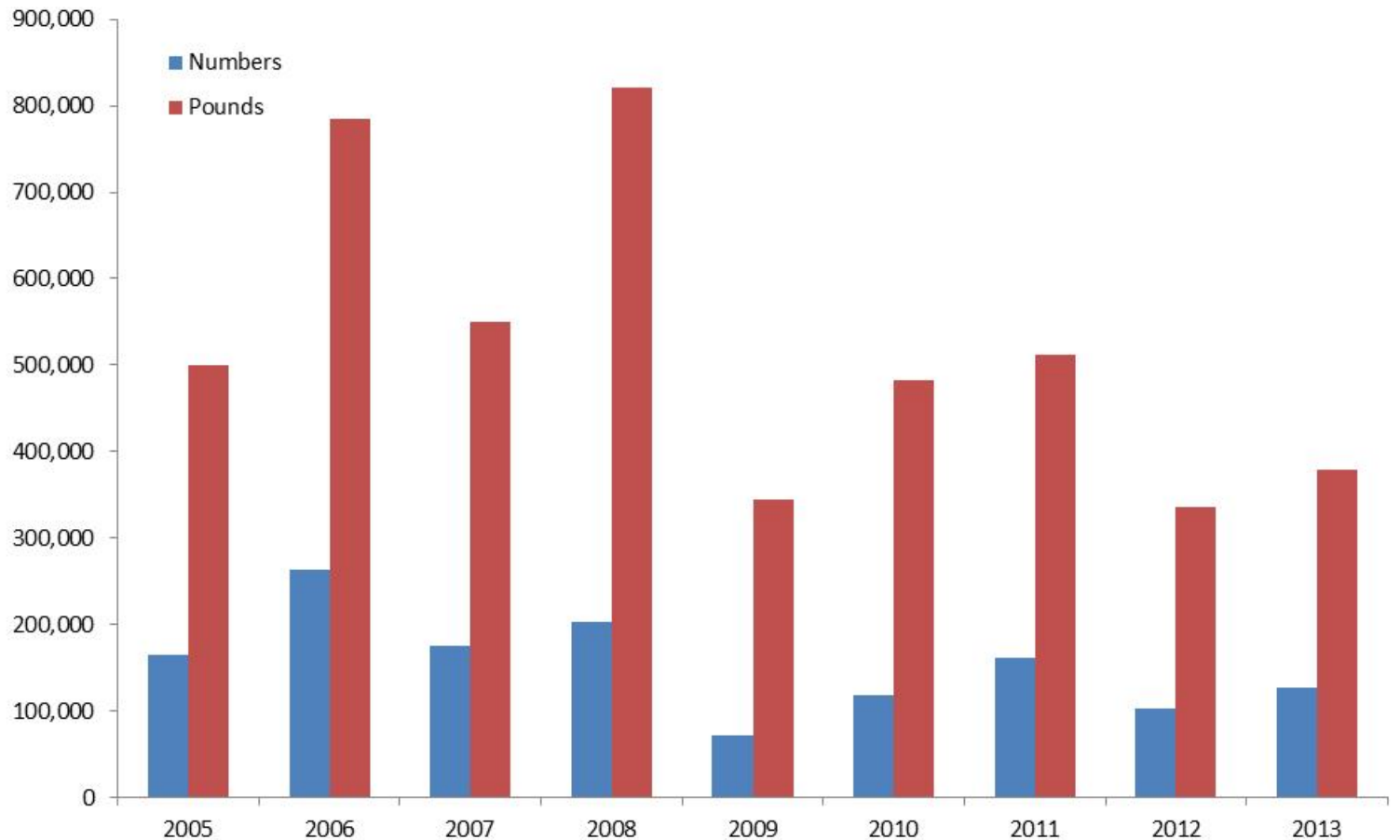
This concluded the discussions and R. Hittinger adjourned the meeting.

# Summary of the Rhode Island Recreational Summer Flounder Fishery



# Recreational Harvest - Summer Flounder

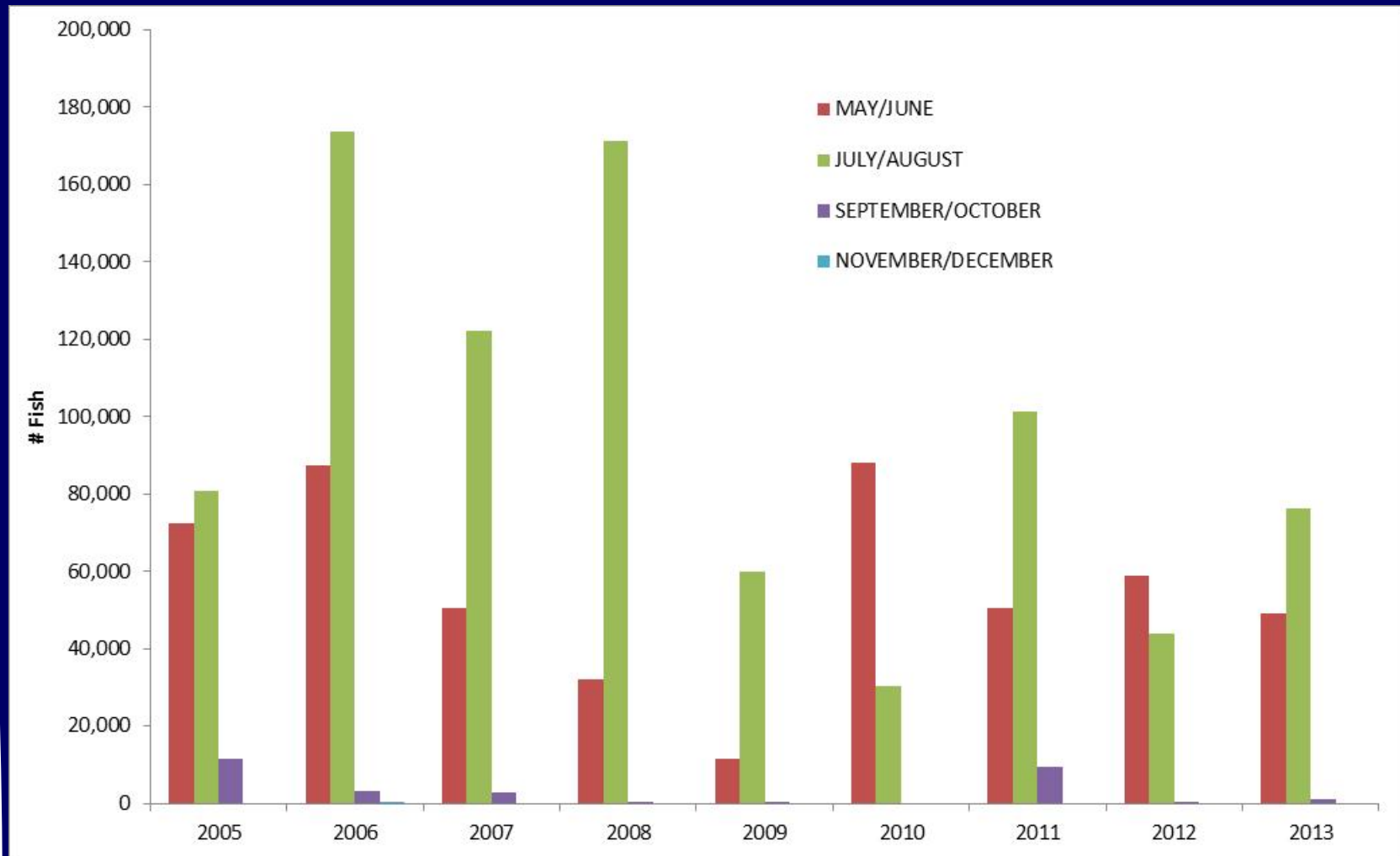
**\*Note: 2013 data preliminary, all waves represented**





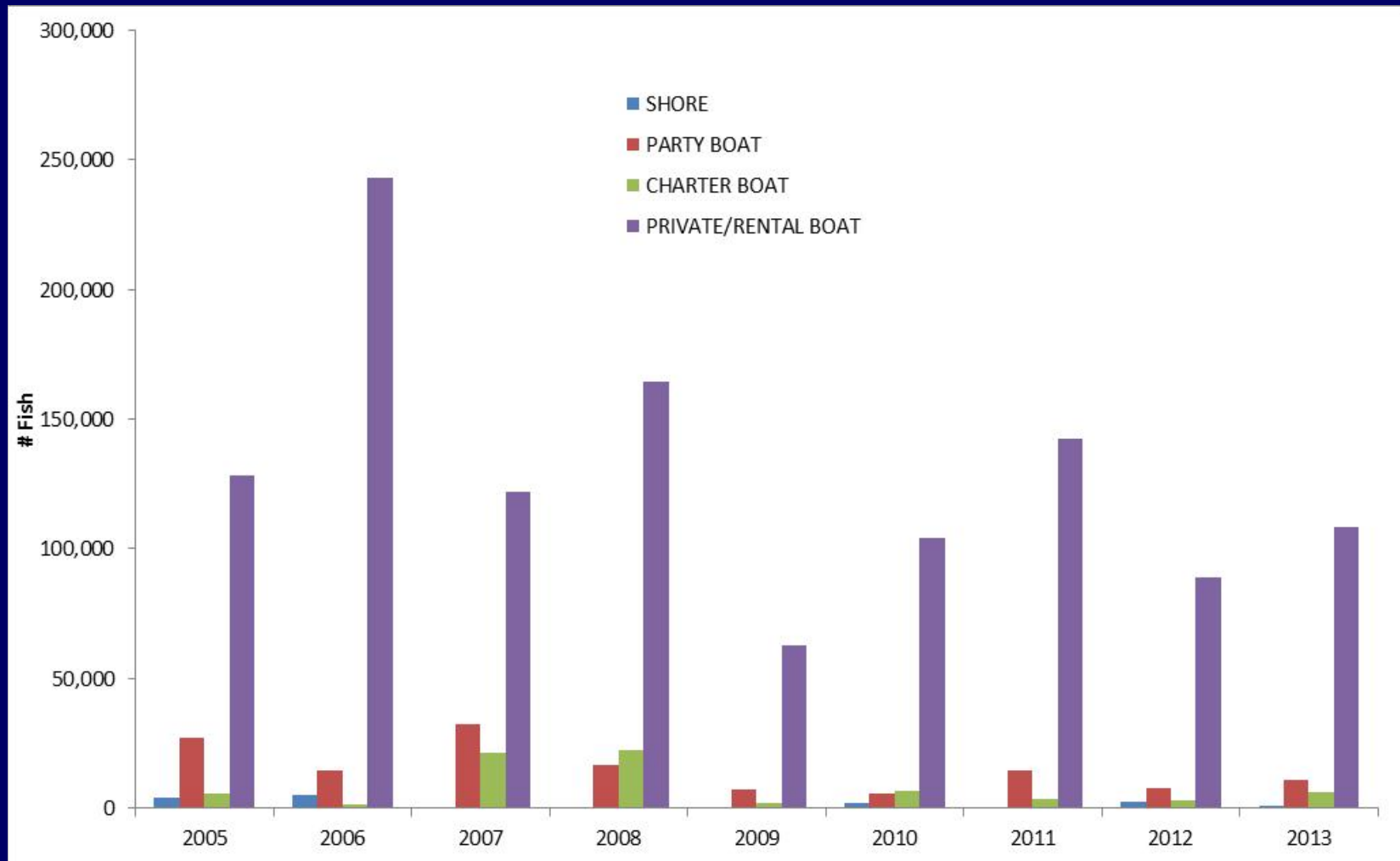
# Recreational Harvest By Wave – Summer Flounder

**\*Note: 2013 data preliminary, all waves represented**



# Recreational Harvest By Mode – Summer Flounder

\*Note: 2013 data preliminary, all waves represented



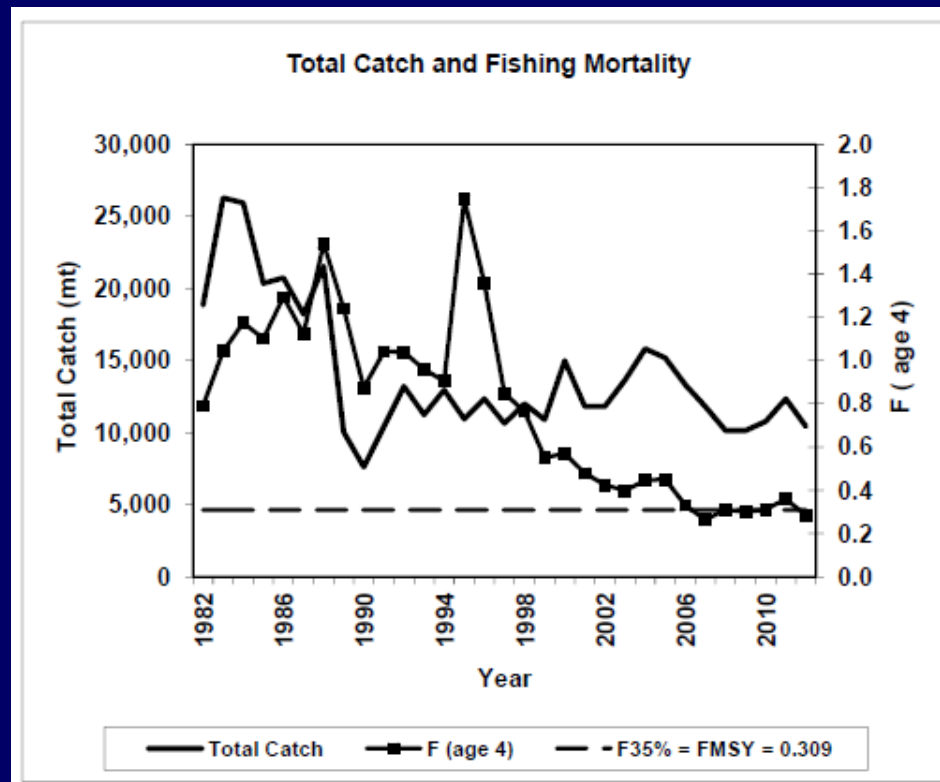
# Rhode Island Recreational Fishery Performance – Summer Flounder

- ◆ Landings and targets were analyzed on a state by state basis in the summer flounder fishery until 2014
- ◆ The landings target for 2013 for RI approximately 142,000 fish
- ◆ The projected landings in 2013 for RI 126,725 fish
- ◆ This is approximately a 10% underage



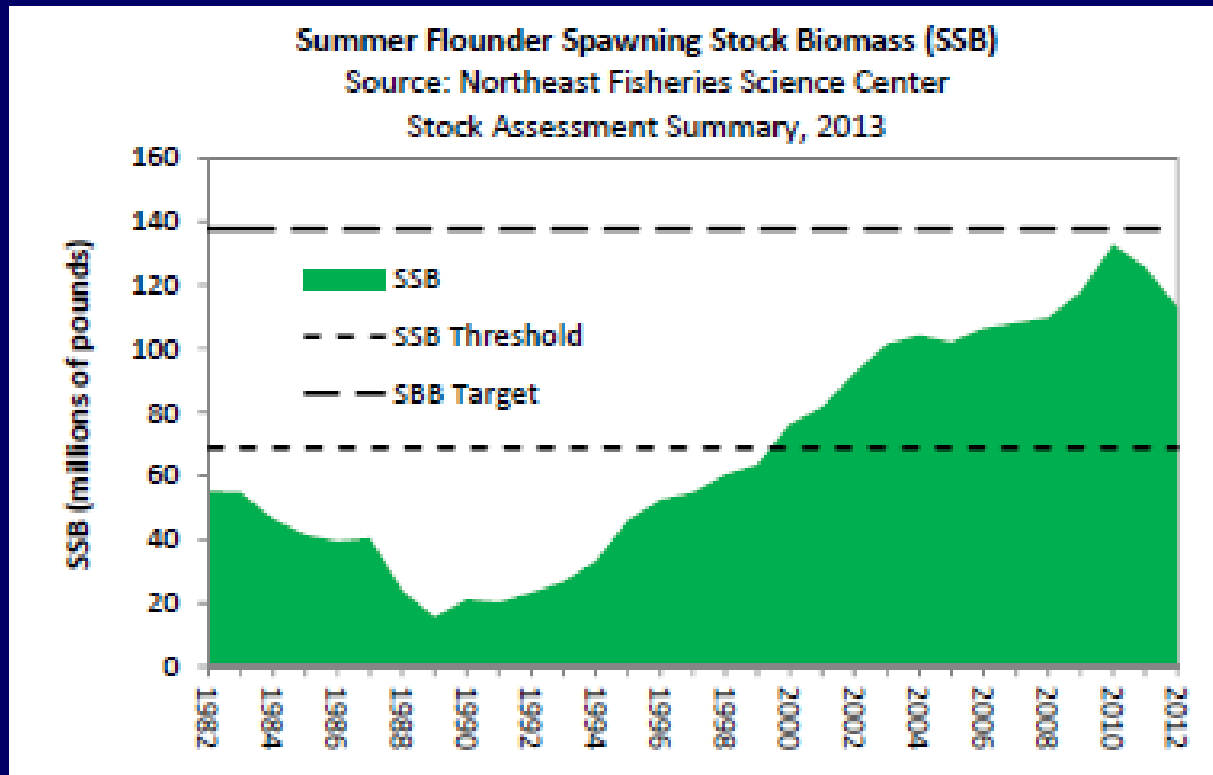
# Stock Status – Summer Flounder

- ◆ The summer flounder stock: not overfished, overfishing not occurring according to output of 2013 benchmark stock assessment
- ◆ Fishing mortality (F) ranged between 1.0 and 2.0 during 1982-1996
- ◆ F estimated at 0.285 in 2012; below the threshold fishing mortality reference point  $F_{MSY} = F_{35\%} = 0.309$



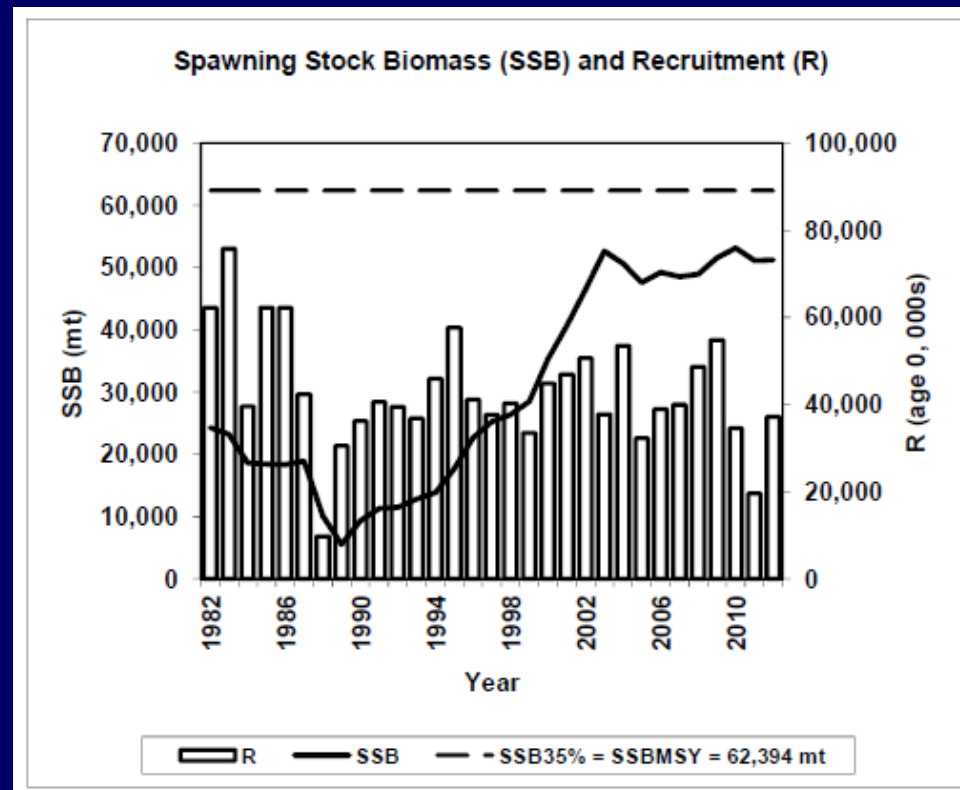
# Stock Status – Summer Flounder

- ◆ Spawning stock biomass (SSB) decreased from 60 mlbs in the early 1980s to less than 20 mlbs in 1989
- ◆ SSB estimated at 112.9 mlbs in 2012; about 82% of the SSB<sub>MSY</sub> = SSB<sub>35%</sub> reference point = 137.6 mlbs but above the threshold of 68.8 mlbs



# Stock Status – Summer Flounder

- ◆ The arithmetic average recruitment 1982 to 2012: 43 mil fish at age 0
- ◆ The 2009 year class currently estimated at 37 million fish; 14% below average
- ◆ This “retrospective pattern” in each subsequent stock assessment update is the reason for the decreasing quotas



# Summer Flounder Addendum XXV

- ◆ Summer Flounder Management Board approved Addendum XXV to the Summer Flounder Fishery Management Plan
- ◆ Establishes regional recreational management for the 2014
- ◆ Approved summer flounder regions are Massachusetts and Rhode Island; Connecticut through New Jersey; Delaware through Virginia; and North Carolina



# Summer Flounder Addendum XXV

- ◆ Addendum initiated to address a concern that current management measures not providing recreational fishermen equitable harvest opportunities
- ◆ Under this approach, all states within a region will be required to have the same possession limit, size limit, and season length
- ◆ Technical Committee will work with the states to develop, for Board consideration and approval, measures for each region that will collectively achieve, but not exceed, the recreational harvest limit
- ◆ Adaptive regional management approach has been approved for the 2014 fishing year only.





# 2013 Rhode Island Summer Flounder Recreational Measures

- ◆ **All Modes:**
  - ◆ **Minimum size = 18"**
  - ◆ **Season: May 1 – December 31**
  - ◆ **Possession Limit = 8 fish**



# Division of Fish and Wildlife Proposed Changes

The RI Division of Fish and Wildlife will recommend an option that will be approved by ASMFC.

Preliminary discussions are centered around decreasing the minimum size and dropping bag limit

Option has to be coordinated with MA, but DFW is seeking AP input on preferred option metrics

In addition the DFW is concerned about risk of overage, Addendum XXV states that the accountability is still relative to a states RHL as set from 1998 allocations

## Options:

1. Min size = 17"; season = 132 days; bag limit = 5 fish
2. Min size = 17"; season = 132 days; bag limit = 8 fish
3. Min size = 16.5"; season = 132 days; bag limit = 3 fish
4. Min size = 16.5"; season = 132 days; bag limit = 5 fish
  - ♦ Note: regional seasons can be different, length must be same



# **Proposed RIMFC Action:**

Approval of the  
Rhode Island For-Hire  
Fluke Conservation Cooperative  
Pilot Program

## **Type of Statement:**

**A Co-Managed  
Sustainable Fishery Proposal**

## **Lead Agency:**

**Rhode Island For-Hire Fluke Conservation Cooperative**

## **In Consultation with the:**

**Rhode Island Department of Environmental Management**

**And**

**The Rhode Island Division of Fish and Wildlife**

For Further Information:

The Rhode Island Party & Charter Boat Association

P.O. Box 177

Narragansett, Rhode Island 02880

Phone: (401)-741-5648

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## **List of Acronyms**

ACL - Annual Catch Limit

ASMFC – Atlantic States Marine Fisheries Commission

MAMFC – Mid Atlantic Marine Fisheries Council

NEFMC – New England Marine Fisheries Council

NMFS - National Marine Fisheries Service

RHL – Recreational Harvest Limit

RIDEM - Rhode Island Department of Environmental Management

RIPCBA - Rhode Island Party & Charter Boat Association

RIFHFCC - Rhode Island For-Hire Fluke Conservation Cooperative

TAC - Total Allowable Catch

## 1.0 Summary

A group of charter fishing business operators from the Rhode Island Party & Charter Boat Association (RIPCBA) propose to work with the State of Rhode Island Division of Environmental Management (DEM) to develop, establish and carry out a cooperative management solution to address a variety of current and foreseeable problems facing the for-hire fishing industry in Rhode Island. The solution being proposed is a community cooperative.

Beginning in 2010, a group of Rhode Island charter boat captains began a three-year effort to research and design a model program to test a new approach to charter boat fishing. In May 2013, ten captains launched a voluntary pilot program—the first of its kind in the world—that combined increased catch accountability with fishing flexibility in order to:

- 1) Create incentives for stewardship and accountability in the fluke resource;
- 2) Reduce discards of fluke;
- 3) Better serve customer needs and manage charter boat businesses;
- 4) Improve the customer experience of charter boat fishing for fluke.

The pilot program participants were organized as the Rhode Island For-Hire Fluke Cooperative. All captains who participated in the program were active members of the RI Party and Charter Boat Association (RIPCBA). The group branded the pilot program initiative as *Rhode Island Fish for the Future* and created a logo. They also launched a website, [www.rifishforthefuture.com](http://www.rifishforthefuture.com), to raise awareness of the program and its goals.

The captains voluntarily limited their fluke catch below the amount they were allowed to harvest under the general recreational fishing regulations while allowing their customers to keep more of the fish that were caught. Their approach greatly increased catch accountability while significantly reduced discards of undersized fish. In addition, it improved the collection of scientific information needed for fluke conservation through strict electronic catch and discard record-keeping. The Cooperative shared this information with RIDEM's fishery managers to better inform scientific stock assessments.

In its first year, the Cooperative acquired the fluke used for this pilot program through the Mid-Atlantic Fishery Management Council's Research Set Aside (RSA) program. Funds for the purchase of RSA fluke were provided through a research grant from the National Fish and Wildlife Foundation (NFWF). The captains subdivided the RSA fluke in accordance with the rules of the cooperative, agreed to by all members. Individual captains were held accountable for fishing within their individual catch limit.

Although the Cooperative was initially comprised of ten boats, two captains were unable to operate their charter boat businesses during the 2013 season. As a result, only 8 boats caught fluke under the program. The members of the Cooperative made **92** fluke fishing trips between May 1 and October 1 with customers catching a total of **2049** fluke, of which they kept **1170** and released **879** fish that were under the 16" minimum size adopted by the Cooperative members. If the customers had been fishing under the general

recreational regulations they would have kept only **488** fish and discarded **1601**. As a result, the average number of fish kept per trip was **12.7** under the pilot program. If they had been fishing under the general recreational fishing rules, the average number of fish kept per trip would have been **4.9**.

The captains carried an average of **4.5** anglers per trip who kept an average of **2.8** fluke per angler. If they had been fishing under the general recreational fishing rules, these anglers would have been able to keep only **1.1** fluke per person.

The Cooperative members achieved the required resource conservation by voluntarily limiting their total catch in return for increased flexibility. While the general recreational rules use larger minimum sizes and bag limits as the method of limiting the total catch by recreational fishermen, the pilot program was able to reduce the minimum size and eliminate the need for bag limits while still maintaining conservation equivalencies.

It is the opinion of the participating charter boat captains that a second year pilot program conducted under the state's recreational allocation is a prudent next step to transition away from current controls that reduce the overall contribution of the for-hire fleet to the State's economy. In addition, the captains expect to meet the social and conservation objectives listed in section 4.0 below.

The RIPCBA and RIFHFCC request that a pilot program be implemented beginning on May 1, 2014 and run for a period of at least one year. It is the group's intention to demonstrate that the model proven to be successful under the RSA program can be applied with equally positive results under the state's recreational target allocation.

Contrary to popular belief, recreational fluke fishing rules such as the minimum size, seasons and bag limits are set to control the total catch, not to control any adverse effect on the biology of the fish.

The member captains have taken a long-term view of the benefits expected from fishing under the cooperative rules. Many of the captains had all but given up fluke fishing as increasingly restrictive regulations made it difficult to book trips in advance due to uncertainty regarding the opening of the season, minimum size restrictions and catch limits. In addition, increases in the minimum size required much of the customer catch to be discarded, resulting in an unfavorable customer experience, lower perceived value of the trip, and ultimately less repeat business for fluke trips.

Because the recreational fluke fishery does not operate under an annual quota, regulators attempt to limit the total catch through adjustments in the length of the season, the minimum size limit, and the bag limit.

As a result, anglers discard as much as 75 percent of the fish that they catch. These high discard rates can discourage both charter customers and captains and potentially undermine conservation. However, under the rules adopted by the Cooperative, member captains fished under an annual catch limit that assured adequate conservation without additional regulations that diminish the fluke fishing experience.

Along with the annual catch limit, the captains adopted a 16-inch minimum size that allows 100 percent of fluke to reach sexual maturity while reducing the number dead discards that must be included in the total fishing mortality.

Charter boat fishing is an integral part of the Ocean State's tourism industry, attracting nearly 50,000 visitors to the state and generating as much as \$34 million in tourism related spending annually. It is therefore imperative for Rhode Island to develop programs that conserve ocean resources while continuing to support and grow charter boat fishing in the state. The For-Hire Fluke Cooperative captains believe that their 2013 pilot program successfully demonstrated a model that can both achieve conservation goals while strengthening the economic viability of the charter boat industry.

## 2.0 Background

The Rhode Island for-hire fishing fleet consists of small to mid-sized vessels (19-110 ft) that are owned and operated by independent family businesses. Their financial success is heavily dependent upon providing access to Rhode Island's diverse fish stocks to an equally diverse range of customers with specific preferences. Rhode Island requires for-hire fishing vessels to be licensed as commercial businesses. Many of the participating vessels hold federal Fishery Permits in addition to Rhode Island charter fishing licenses.

Amendment 2 to the Summer Flounder Fishery Management Plan was approved by the federal National Marine Fisheries Service (NMFS) on August 6, 1992. This amendment, which was a complete rewrite of the FMP and is the management program that is in force today, includes a moratorium on commercial fishing permits, state-by-state annual commercial landing quotas, and a 14" minimum size for commercial fishing vessels. The recreational fishery is managed differently. Instead of a hard landing quota, the 40% of the allowable biological catch that is allocated to recreational fishing is a harvest target. Each year, the Atlantic States Marine Fisheries Commission (ASMFC), the Mid-Atlantic Fishery Management Council (MAFMC), NMFS, and the states establish recreational fishing regulations (seasons, bag limits, and size limits) that are expected to restrict the recreational fishery to its target. In some years, the estimated landings in the recreational fishery have exceeded the target, with the 2000 recreational overage reaching 8 million pounds, more than double the target. Because of the very large number of recreational fishermen, it is virtually impossible to monitor the recreational fishery with enough precision to know when a specific harvest level is reached.<sup>1</sup>

Since the early 1990's the State of Rhode Island has managed the for-hire fluke fishery through the same daily possession limits and seasonal closures that apply to private anglers. During the first year of the summer flounder FMP, the coast-wide recreational minimum size was set at 14" with a 6 fish possession limit and a fishing season from May 15 through September 30. Since that time, the season, size limit, and bag limit for the recreational fishery have been adjusted continually in an attempt to achieve the adopted fishing mortality rate reduction strategy.

The recreational fishery management approach has at times created serious problems for the for-hire fishing industry. For-hire fishing boats sell many of their trips during winter-

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<sup>1</sup> The H. John Heinz III Center for Science, Economics and the Environment, 2002. Managing Summer Flounder: A Heinz Center Dialogue on Marine Fisheries Initiative.



season boat shows. Charter and party boat businesses can't sell trips when they don't know when the season will start or what minimum size limit and bag limit they can offer to their potential customers. Charter and party boats are buffeted by changing rules that result from the uncertainty surrounding the overall recreational catch, even though charter and party boats must have licenses and permits and file timely catch reports. These problems reduce the economic benefits that could be generated from Rhode Island's fishery resources. The problems created by treating the for-hire industry the same as private anglers include unnecessary discards, unpredictable fishing seasons, and a regulatory environment that has not given adequate consideration to the requirements of for-hire fishing businesses.

The charter boat industry occupies a no-man's land between the commercial and recreational fisheries. The rules require any owner or operator of a party or charter boat (vessels for hire) desiring to fish for summer flounder within the U.S. EEZ to obtain a permit from NMFS for that purpose. The requirement for a party or charter boat to obtain a federal permit and to report all landings monthly clearly sets those boats apart from recreational vessels, which are exempt from the permitting and reporting requirements.

The current approach to managing the recreational summer flounder fishery creates two types of uncertainty for the fishery management system. First, fishery managers can't be sure whether the regulations will keep the catch within the target. Second, managers can only estimate the catch that was actually taken, because private anglers are not required to report their catch. In contrast to the difficulty faced by fishery managers in estimating the fluke catch by private anglers, owners or operators of party and charter boats with Federal permits must submit logbooks (Vessel Trip Reports) monthly, or weekly if the boat also has a federal groundfish permit. With the advent of the electronic vessel trip reporting system (eVTR), landings by party and charter boats can be monitored in the same way that landings by the commercial fleet are monitored. The allocation of a specific number of fish to a for-hire sector would eliminate both sources of uncertainty for the portion of the fluke catch for which the sector was responsible. Both sources of uncertainty would be eliminated if party and charter boats had firm catch limits.

### **3.0 Need for Action**

The current regulatory framework for fluke does not recognize the needs of for-hire fishing businesses. The for-hire fishing industry is treated as if we were recreational fishermen. Yet unlike recreational fishermen, for-hire fishing businesses must develop and carry out a business plan that requires advance bookings tailored to the demands of their customer base. In order to run a successful for-hire fishing business, it is imperative to know when a captain can start fishing, how many fish can be caught, and how long the season will be. Charter boats don't require a large volume of fish, but they do require certainty. The participating charter boats, based on the proposed reporting requirements, will offer certainty to fishery managers in terms of knowing how many fish we catch.

In recent years, fluke have expanded their range and population dramatically and have been restored to their former position of importance as an attraction for for-hire fishing customers. Incoming year classes of fluke have increased in abundance to the point that the prevailing minimum size limit (18.5" in 2011) now requires our customers to throw back far more fluke than are landed. In some recent years charter boat operators have had

to turn away customers because the opening of the fishing season was delayed to control the catch of private anglers. In contrast to the large numbers of independent private anglers, the for-hire sector consists of a small number of boats that are easily capable of keeping their allotted catch within the desired limits without compromising their business needs.

Despite steady increases in the fluke population, recent announcements demonstrate the continuing business challenges facing for-hire fishing businesses. The fluke regulations for 2011 provided ample opportunity for the for-hire industry to satisfy customers in terms of number of fish allowed. The primary problem faced by the charter boat industry was the high discard rate that is required by the current minimum size limit. Neither the captains nor the customers want to throw back more fish than kept. The situation in 2012 has been clouded by the fact that the 2011 catch may have resulted in overfishing and the previously announced catch limits for 2012 would also cause overfishing if not reduced. Once again, the ability to make a business plan and sell trips during the winter trade-show season has been disrupted by unpredictable changes in regulations.

Experience predicts that the for-hire industry can expect to face other problems in future years similar to those experienced in the past. The charter boat industry is seeing those problems come up with fluke and with other species. This proposal is intended to establish a framework within which an economically stable for-hire fishing industry can continue to contribute to Rhode Island's all-important tourism economy. The participating captains are willing to commit to a catch limit that is lower than their allowable catch under the current regulations if given the opportunity to secure a predictable future for their businesses.

Forward thinking and progressive for-hire fishermen know that they can improve the value of Rhode Island's fluke allocation if they are given the discretion to manage their portion of the catch both profitably and sustainably. The best interests of the citizens of Rhode Island are served by maximizing the economic activity generated by each fish available to the State. For-hire fishing serves that purpose while utilizing a fraction of Rhode Island's overall fluke allocation.

#### **4.0 Purpose, Goals, and Objectives**

Although the purposes of the For-Hire Fluke Sector Pilot Program are diverse, the main purpose of this action is to request that the State of Rhode Island initiate a process to give the RIFHFCC the authority to manage a catch limit of fluke for its members. This can be achieved through the adoption of rules that will meet the biological objectives set forth in the state fisheries laws and the federal summer flounder FMP and alleviate to the greatest extent possible the economic hardships of future regulatory actions.

It is becoming more and more important for a state to demonstrate that they do not contribute to overfishing or stock depletion. This can be done through the development and administration of an advanced management program such as is offered by firm catch limits and accountability.

Discards in the fluke fishery are a recognized problem that reduces the economic benefits from the fishery and interferes with stock rebuilding and sustainability. Continuing developments in fishery management and in the evolution of our fisheries overall threaten

to handicap the for-hire fishing industry whether or not that sector is responsible for a recognized problem. We are confident that a cooperatively-managed fluke fishery will significantly alleviate this regional problem. Modern management with individual accountability and flexibility will contribute to an environment in which the for-hire fishery will flourish and prosper, providing a needed boost to the broader tourism economy.

In response to these problems, a local group of fishermen have developed a plan to meet the following goals and thereby protect our local resource and industry.

## **4.1 Goals of the RIFHFCC**

### **4.1.1 ACCOUNTABILITY & CONSERVATION GOALS (biological and ecological)**

- Conserve fish populations for the future by creating incentives for stewardship of ocean resources and habitat.
- Be accountable to a specific catch limit of fish and fish within that sustainable catch limit in order to continue to rebuild and maintain the summer flounder fishery.
- Test new, innovative catch accounting and reporting for the recreational sector that provides more accurate and timely fishery-dependent data to fishery managers and scientists.
- Reduce regulatory discards and associated mortality.

### **4.1.2 FLEXIBILITY & STABILITY GOALS (economic and social)**

- Increase flexibility of when to fish in order to better serve the customers of charter boats.
- Improve business planning by achieving stability, predictability and certainty in fishing rules and resource conservation.
- Maximize the value of Rhode Island's fluke resource to the benefit of fishing businesses, fishing communities, ancillary shore/dock side businesses, and the overall State economy.
- Implement stakeholder co-management in Rhode Island in such a way as to align the interests of charter boat businesses with the interests of the public in conserving and utilizing fishery resources.

The RIFHFCC is a group of self-selecting fishermen coming together voluntarily and cooperatively for the purpose of improving the economic viability of the for-hire fishing industry while simultaneously enhancing fluke conservation. Under this proposal the sector will operate under a Hard-TAC for fluke. In doing so, the group will immediately satisfy the overfishing mandates of the Magnuson Act and the requirements of the State of Rhode Island and the Atlantic States Marine Fisheries Commission. In addition, the cooperative will provide its members with greater certainty and flexibility necessary for business planning and economic viability.

It is anticipated that this pilot program will demonstrate environmental, economic and social benefits to the sector members and the surrounding community.

### **Stewardship Incentives**

The RIFHFCC will create a stewardship incentive among its members by offering them improved business planning and stability in return for greater accountability for keeping their catch within a clearly defined limit and reducing discards.

### **Continue Rebuilding and Maintenance of Summer Flounder Stock**

Implementation of the RIFHFCC Pilot Program will immediately contribute to the prevention of overfishing by complimenting existing efforts underway by NMFS, MAMFC, and ASMFC with a Hard-TAC Limit for fluke for cooperative participants. The creation of this cooperative will result in an accountable system of catch limits that is currently lacking for the for-hire fishing industry as a component of the recreational fishery.

The MSA requires catches of all federally managed species to be constrained to conservative Annual Catch Limits (ACL's). If states exceed their allocations, they will be required to impose ever more restrictive management measures. The Hard-TAC component of this proposal is consistent with the future direction of fishery management and should assist fishery managers in moving toward the goal of constraining catches to ACL's.

### **Minimizing Discards**

The RIFHFCC will reduce discards by adopting a combination of a total catch limit and a minimum size that results in the retention of a high proportion of fish caught. The suggested minimum size is 16.0" for cooperative participants. The group will require cooperative participants to land all legal-sized fluke and will count undersize discard mortality against our catch limit. The cooperative will monitor the fleet in such a way as to provide accountability at the individual boat level throughout the course of the program. This will include size stratification of all fluke landed. This level of accountability will promote stewardship and provide fishermen with both the interest and the data to determine their impact on the resources upon which they depend.

### **Better Meet Customer Demand**

Consumers expect for-hire fishing businesses, like other businesses, to meet their varied preferences. The RIFHFCC will give members the flexibility to meet customer demand for fishing opportunities that fit their needs. The ability to do so will increase customer demand for RI charter fishing and associated businesses.

### **Increase Stability, Predictability and Certainty**

The current management approach makes it impossible for the for-hire fishing businesses to develop workable business plans because the rules under which they operate change on a continuing basis. Changes in the rules are based on the need to control the catch by private anglers and do not take into consideration the needs of charter boat operators. The RIFHFCC will provide members with the stability that they need for good business planning.

### **Maximize Economic Benefit**

The RIFHFCC will generate economic benefits by allowing its members to better utilize the available fish to meet the needs of their customers in a way that maximizes the value of RI's fluke resource. These benefits will accrue under the current favorable resource conditions and, equally important, stabilize under declining stock conditions that could to arise in the fluke fishery and other fisheries.

The establishment of the RIFCC will allow its members the option of harvesting cooperatively with other member vessels in order to compensate for unforeseen and unexpected injury, sickness or mechanical breakdowns. In short, participants willing to abide by all sector rules and operate under a Hard-TAC do so in the presence of a number of optimizing strategies that would otherwise be unavailable.

### **Establish an Effective Co-Management System**

Fishery managers have found that co-management systems produce greater conservation and economic benefits than do top-down regulatory systems. Fishing business operators know the requirements of their businesses. Fishery managers contribute their understanding of fish biology and population dynamics. Managers and fishermen both gain from a system that aligns the interests of fishermen with the goals of fishery managers. The fishermen of the RIFHFCC have worked together for years as active members of the RI Party & Charter Boat Association and have demonstrated an interest in working with fishery managers to optimize the benefits available from fishery resources.

### **Recognize Commercial, For-Hire, and Recreational Fluke Fisheries**

The for-hire fluke fishery is a distinct component of the overall fishery. Members of the RIFHFCC recognize the value of all segments of the fishery in maximizing the overall value of the fluke resource to the citizens of RI. The RIFHFCC will enhance the ability of the for-hire fishery to contribute to the overall value of the fishery.

## **5.0 Proposal**

The RIFHFCC proposes to establish a single species community-based fisheries co-management cooperative through the RIDEM. This proposal requires that a portion of the RI fluke quota be used to create a catch limit for the RIFHFCC. The designated catch limit will be managed by the RIFHFCC, which will be an incorporated entity and will be responsible to RIDEM for carrying out the requirements attached to the approval of the cooperative management proposal.

The cooperative will request a distinct allocation of fluke for the year 2014, while agreeing to operate under a Hard-TAC. The cooperative will seek an exemption from daily possession limits and time closures and will seek an alternative minimum size for the purpose of reducing discards. The cooperative members will land and tally all legal-sized fish against a Hard-TAC allocation. If or when the cooperative achieves its Hard-TAC on fluke, the members will cease to fish for fluke for the balance of the year and will maintain a cooperative reserve necessary to cover incidental catches of fluke while fishing for other species. This will insure that the full retention of legal-size fluke can be

done while staying within the sector TAC. The Cooperative Manager will oversee day to day operation of the sector.

All dead discards of sub-legal fluke will be deducted from the Hard-TAC using the 10 percent discard mortality rate accepted by the summer flounder stock assessment. Transferability of quota to assure optimum utilization within the cooperative will be allowed within the duration of the pilot program. Real time landings data will be used to ensure compliance with the Hard-TAC. The cooperative will report to RI DEM with single vessel resolution in any way required by the Department.

#### Key Proposal Criteria:

- Conduct a pilot program in 2014 that continues the 2013 pilot program
- Pilot program will run from May 1, 2014 – October 30, 2014
- The Cooperative for the 2014 pilot program will include the same initial number of participating boats (10) as the 2013 pilot program.
- Participation in the Cooperative is voluntary.
- Membership in the RIPCBA is required for pilot program participation. Participating boats will voluntarily restrict their seasonal catch to a defined catch limit. The participating boats in the Cooperative would agree to a total restricted catch limit of no more than 2% of Rhode Island's RHL for fluke.
- Participants will be allowed to transfer catch within the cooperative with no sale of fish or fees charged or incurred by either party.
  
- Should the Cooperative reach the defined catch limit, all participating boats must stop fishing for fluke.
- Any unused catch will be transferred back to the general recreational sector
- Participants must record and report catch data (per RI DEM specifications) electronically using approved software program and suitable tablet device.
- Minimum size is 16.0"
- No daily or per trip bag limits

### **5.1 Catch Limit for the For-Hire Fluke Conservation Cooperative**

The proposal combines a Hard-TAC that will limit the catch by members of the cooperative and a minimum size that was chosen to reduce discards

The proposed minimum size for Cooperative members is 16.0".

The proposed catch limit for the Cooperative for 2014 is 2% of Rhode Island's RHL for fluke. This is a Hard-TAC for the entire season, including dead discards to be counted against the Hard-TAC. Should the Cooperative reach the defined catch limit, all participating boats must stop fishing for fluke.

Under this proposal, RI DEM would be setting a fluke catch limit for the Cooperative that is less than 1% of the total number of fish that the sector members could potentially take under the rules in effect in 2013 and which will result in a dramatic reduction in the ratio of dead discards to kept fish. The members of the cooperative are willing to relinquish potential catch in return for regulations that reduce discards and eliminate uncertainty.

The proposed total catch limit of up to 2% of Rhode Island’s RHL for fluke for ten participating boats in the Cooperative is based on actual electronic trip reports from the 2013 pilot program.

<b>2013 Season</b>	<b>Total Fluke Caught</b>	<b>Total Fluke Landed</b>	<b>Total Fluke Discarded</b>	<b>Discard Rate</b>
Pilot Program	2049	1170	879	42.8%
2013 Rec Rules	2049	449	1601	78.1%

\* While there were 10 boats in the Cooperative last year, two captains were unable to operate their charter businesses in 2013 and, therefore, did not fish at all under the pilot program while another two boats were only able to fish on a limited basis.

## **5.2 Catch Limits for Members of the RIFHFCC**

The Cooperative manages the catch limit for the group and sets individual catch limits for the members in accordance with an arrangement approved by the members. Transferring of fish among members of the cooperative is intended to promote flexibility and to offset problems that would otherwise occur because of breakdowns, sickness, or other personal circumstances. Transfers are only allowed on a free and voluntary basis with no sale of fish or fees charged or incurred by either party.

## **5.3 Duration of Program**

This proposal is for a one-year catch limit pilot program to continue to test the concept and the feasibility of a for-hire fluke conservation cooperative. Any catch limit set for the RIFHFCC and by the RIFHFCC to its members shall be for the period from May 1, 2014 to October 30, 2014

**No permanent allocation of fish would occur under this proposal and no sales of any individual allocation could take place.**

## **5.4 Limits on Individual Catch**

The RIFHFCC supports a limit on the catch limit assigned to any individual in order to prevent monopolies while still allowing individuals to grow their businesses. Transfers of fish among members will be allowed only during the period from May 1, 2014 to October 30, 2014 and will require approval by the cooperative manager. At the end of the fishing year (10/30/14), all individual catch limits will expire, with the result that transfers will be good for one season only – no permanent transfers of quota between licenses or permits will be possible under this program. Individual catch limits in subsequent years

will depend on the renewal of the cooperative program by RIDEM and on the assignment of individual catch limits according to rules established by the RIFHFCC.

### **5.5 A Stable Regulatory Environment**

The maximization of economic benefits from RI's for-hire fluke fishery requires a stable regulatory environment that optimizes the value of each fish. For-hire fishing businesses need to know when they can fish and how much they can catch. They need to make the most of the fish available to them by minimizing discards. They also need to provide their customers with a positive experience, which will be enhanced by reducing discards compared to the existing rules. For these reasons, the RIFHFCC requests a regulatory framework that is based on a specified catch limit with a constant season and a constant minimum size, more like the stable commercial regulations rather than the continually changing recreational regulations. The RIFHFCC requests the following regulations:

- A hard TAC calculated to increase the contribution of program members to the RI economy;
- An open season from May 1 through October 31;
- An unlimited daily bag limit subject to the overall annual cap on the catch by members of the cooperative;
- A size limit of 16.0", calculated to minimize discard mortality associated with the overall catch limit and consistent with the need for a positive customer experience.

### **5.6 Administrative Systems**

The RIFHFCC will employ a cooperative manager to insure compliance with the following catch accounting, monitoring, and verification requirements:

- Submission to the cooperative manager of numbers and length of all fluke caught by member vessels, kept and discarded;
- Discard mortality rate applied to undersize discards;
- Cooperative catch reports submitted to RIDEM on the required schedule;
- Provision to stop all fluke catches by member vessels when the cooperative catch limit has been taken;
- Monitoring and Validation options:
  - Real-time electronic recording of all fish landed in a format consistent with the needs of fishery managers.
  - Call-out and call-in system with catch report and independent dockside checks upon landing.
  - Tracking of member vessels through the use of LocationTracker™ by Harbor Light Software, LLC.
  - Client validation tools including reporting cards or log book with client contact information.



## **5.7 Cooperative Pilot Program Membership**

This is a proposal for a one year pilot program with an option for renewal on an annual basis. The participants must all be members of the RI Party and Charter Boat Association and the program must be approved by the membership of the RIPCBA.

Pilot program members accept responsibility for themselves and for the other members of the program. As such, it is necessary for the pilot program to be self-selecting business partnerships, meaning that members choose to join the program and the program members choose whether or not to accept any new applicant. A unanimous vote is required for acceptance into the 2014 pilot program.

To qualify for participation in the pilot program proposed here, a member must have a valid Rhode Island Charter and Party Boat License and a valid federal Fluke Permit and must have indicated interest in participating in the program. All of the members participated in many proposal development meetings and are fully familiar with the requirements for operating under program management. The fishermen who participated in designing the program and participated in the 2013 RSA pilot program would welcome additional members who meet the criteria outlined in this proposal.

The requirements for a RI party and charter boat license are as follows:

**§ 20-2-27.1 Rhode Island party and charter boat license.** – (a) All party and charter boats carrying recreational passengers to take or attempt to take marine fish upon the navigable state and coastal waters of Rhode Island shall be required to obtain a Rhode Island party and charter boat license. The licenses shall be issued by the department on a biennial basis for a fee of twenty-five dollars (\$25) per vessel. All licensed party and charter boats shall be required to display a party and charter boat decal provided by the department. To obtain a license, the owner of a qualified vessel must submit:

(1) A current copy of the operator's U.S.C.G. license to carry passengers for hire;

(2) A current copy of the vessel's "Certificate of Documentation" certifying that the vessel is documented "Coastwise," or if the vessel is under five (5) net tons, a copy of the vessel's state registration;

(3) Proof that the operator and crew are currently enrolled in a random drug testing program that complies with the federal government's 46CFR "Drug Testing Program" regulations; and

(4) A signed license application form certifying that the vessel is and will be operated in compliance with all state and federal safety regulations for the vessel.

(b) Rhode Island party and charter boat licenses shall expire on the last day of February every other year, with the first expiration date being in February 2001.

Table 1 –Participating members of the 2014 Rhode Island For-Hire Fluke Conservation Cooperative

Captain Name	Home Address	Charter Vessel
1. Steve Anderson	Warwick, RI	Bare Bones
2. Rick Bellavance	N. Kingstown, RI	Priority Too
3. Paul Johnson	Wakefield, RI	Carol J
4. Dave Monti	Warwick, RI	Virginia Joan
5. Joe Pagano	N. Scituate, RI	Stuff It
6. John Rainone	Narragansett, RI	L'il Toot
7. Lynn Smith	Charlestown, RI	Lil' Devil
8. Kelly Smith	Charlestown, RI	C-Devil II
9. Lin Safford	Charlestown, RI	Cherry Pepper
10. Andy D'Angelo	West Kingston, RI	Maridee II

Cooperative members will be required to declare their intention to participate in the pilot program in writing to the Director of the DEM and be subject to an enforcement review process if required by the Director. Members will be legally bound by a membership agreement that outlines expectations of members as well as a schedule of penalties for violations of sector rules.

The cooperative at this time includes members primarily from Point Judith and ports on the west side of Narragansett Bay. It is not the intention of the program to favor one port over another. This group of fishermen is brought together by a common belief that they can improve the stewardship of the fishery and their economic performance by taking a greater responsibility for managing their own fishing activities under a Hard-TAC for fluke. This group has no objection to the formation of additional cooperatives to accommodate similar self-selecting partnerships.

## 6.0 Legislative and Regulatory Basis for Cooperative Management

The Marine Fisheries Laws of the State of Rhode Island give the Director of the Department of Environmental Management authority and responsibility over fishery resources.

**20-1-2 Authority over fish and wildlife.** – The general assembly hereby vests in the director of the department of environmental management authority and

responsibility over the fish and wildlife of the state and over the fish, lobsters, shellfish, and other biological resources of marine waters of the state.

**20-2.1-9 (2)** When implementing the system of licensure set forth in sections 20-2.1-4, 20-2.1-5, 20-2.1-6, and 20-2.1-7 of this chapter and other provisions of this title pertaining to commercial fishing licenses, permits, and registrations, the director shall consider when establishing limitations on effort and/or catch:

(i) The effectiveness of the limitation:

(A) In achieving duly established conservation or fisheries regeneration goals or requirements;

(B) In maintaining the viability of fisheries resources overall, including particularly, the reduction of by-catch, discards, and fish mortality, and in improving efficiency in the utilization of fisheries resources;

**20-2.1-9. Powers and duties of the director...**

(4) ... This authority shall include the authority of the director to:

(i) Differentiate between the level of access to fisheries provided to license holders or potential license holders on the basis of past performance, dependence on the fishery, or other criteria;

(iii) ... quotas may be allocated proportionally among classes of license holders as needed to maintain the viability of different forms of commercial fishing.

(5) The director shall by rule, with the advice of the Marine Fisheries Council develop conservation and management plans for the fishery resources of the state, which conservation and management plans shall be adopted prior to and at the same time as adoption of any license restrictions on effort or catch. In the development of such fishery conservation and management plans, priority shall be given to those resources with the highest value to the state, either for commercial or recreational purposes.

RI DEM has incorporated the provisions of the RI General Laws related to Fish & Wildlife into an enumerated list of Rules titled "Commercial Fishing Licensing Regulations," which also include provisions related to fishery management plans.

6.2-1: The management controls set forth in 6.1 must be based on fishery management plans that have been adopted by the department or by a federal agency or regional body of competent jurisdiction. Such plans may be species or fisheries specific, or apply to whole endorsement categories.

6.2-2: Purpose and Content

(a) The central objectives of all fishery management plans shall be (1) to prevent overfishing, while achieving on a continuous basis the MSY from each fishery; and (2) to restore overfished stocks to sustainable levels.

(b) Management plans shall be responsive to and reflective of changing stock and fishery conditions and there by support an adaptive management process.

(c) Management plans shall seek to achieve the objectives set forth in subsection (a) above by establishing management measures that may include a mix of input

and output controls, such as limitations or restrictions on effort, gear, catch, areas, time and/or season.

(e) In considering the economic and social impacts of licensing and other management measures on fishers and fishing-dependent communities, as well as on the general public, management plans shall to the maximum extent feasible employ methodologies that are consistent with those employed by the National Marine Fisheries Service.

(g) Management plans shall consider the effectiveness of management measures in reducing by-catch, by-catch mortality, and discards.

(h) Management plans shall complement federal and regional management plans and programs and the reciprocal arrangements with other states.

(j) Management plans may take into consideration other factors that the Director deems appropriate.

Paragraph 6.2-2 of the RI DEM Commercial Fishing Licensing Rules identifies the central objective of a management plan in the State of Rhode Island as one intended to prevent overfishing. Given that fluke have been overfished in the past and that discards and uncertainty concerning the recreational catch are a continuing problem, improvements in fluke management are warranted. RI DEM recognized the need for continuing improvements in fishery management when it approved a pilot commercial fluke sector in 2007 and each year thereafter. The benefits of the commercial fluke sector have been well documented.

Paragraph 6.2-2 (b) recognizes the importance of crafting fisheries laws that respond to the ever-changing needs of fish stocks. This responsiveness is intended to provide the State with the long term benefits that are associated with the partnering of responsive management and stewardship.



**RHODE ISLAND**  
**SALTWATER**  
**ANGLERS**  
**Association**



P.O. Box 1465, Coventry, Rhode Island 02816

401-826-2121

FAX: 401-826-3546

www.RISAA.org

Stephen J. Medeiros  
President  
401-826-2121

February 20, 2014

Capt. Richard C. Hittinger  
1st Vice President  
401-739-1875

Chairman  
RIMFC Summer Flounder Advisory Panel

Capt. David P. Monti  
2nd Vice President  
401-480-3444

Dear Sir,

Roger O. Tellier  
Secretary  
401-398-2670

Be advised, that the Rhode Island Saltwater Anglers Association is opposed to the Rhode Island For-Hire Fluke Conservation Cooperative Pilot Program (Cooperative) request. The recreational share of the Rhode Island summer flounder quota belongs to every recreational angler, individually and equally, and no portion of that common fishery should ever be exclusively given to any individual, or group of individuals, for their own personal or financial gain.

Peter R. O'Biso  
Treasurer  
401-783-2364

William S. Sosnicki  
Sergeant-At-Arms  
401-822-2979

Further, we find it objectionable, that any such group be allowed to harvest summer flounder with less-restrictive size limits than the rest of the recreational fishing community.

Travis E. Barao  
Director  
401-301-7944

Capt. J. Edwin Cook  
Director  
401-885-0679

We also believe that allowing the creation of a private sector on summer flounder within the recreational fishing community will lead to further attempts to privatize other species of importance to the recreational fishing industry.

Michael W. Lawing  
Director  
401-255-7866

Therefore, the Board of Directors of the Rhode Island Saltwater Anglers Association strongly requests that the Summer Flounder Advisory Panel reject the Cooperative's request.

Kevin C. Miller  
Director  
401-497-6794

Respectfully,

Robert S. Murray  
Director  
401-378-5895

Stephen J. Medeiros  
President

Capt. Michael A. Warner  
Director  
401-364-0027

*The Rhode Island Saltwater Anglers Association represents over 7,500 recreational anglers and 34 affiliated clubs*

Benjamin's Fishing Club • Blue Water Anglers • Bowling Green Fishing Club • Bristol County Striper Club • Buckeye Brook Coalition  
Buzzards Bay Anglers Club • Cape Cod Salties • Connecticut Surfcasters Association • CT/RI Coastal Fly Fishers • East Bay Anglers  
East Greenwich Yacht Club • Galilee Tuna Club • Italian Progressive Fishing Club • Jamestown Striper Club  
Massachusetts Beach Buggy Association • Massachusetts Striped Bass Association • Narragansett Pier Sportfishing Association  
Narragansett Salt Water Fishing Club • Narragansett Surfcasters • Newport County Saltwater Fishing Club • Ocean State Surfcasters  
Old Colony Amphibians • Pioneer Valley Boat & Surf Club • Princeton Fishing Team • Rhode Island Marine Trades Association  
Rhode Island Mobile Sportfishermen • Rhode Island Party & Charter Boat Association • Rhody Fly Rodders • Slater Mill Fishing Club  
St. John's Fishing Club • Strippercoast Surfcasters • Thundermist Striper Club • United Fly Tyers of Rhode Island • Weekapaug SurfCasters

RI Marine Fisheries Council  
Tautog Advisory Panel

Meeting Minutes

February 20, 2014 - 4:30 PM URI Bay Campus, Hazard Room

R. Hittinger, Chairman	M Bucko*
P. Heaney	E. Cook <sup>A</sup>
B. Morris*	P. Karcz*
S. Anderson	J. Rainone*
D. Valerien	C. Donilon
G. Latos*	F. Blount <sup>A</sup>
J. Barker	S. Medeiros
R. Tellier	
R. Ballou, RIDEM	J. McNamee, DFW staff

(\*primary advisory panel member; <sup>A</sup> alternate member)

R. Hittinger began the meeting. He stated that J. McNamee from the Division of Fish and Wildlife (Division or DFW) had a presentation (see attached) which covered the first several agenda topics. He went on to state that after the presentation the panel would move on to discuss any proposals they may have for either commercial or recreational tautog management in 2014.

J. McNamee began his presentation with a review of the 2013 commercial fishery. The fishery had a small overage in the spring sub period but the fishery went over the quota for the year by approximately 1,874 lbs. He stated that dealer reporting seemed to be improving, certainly in the tautog fishery. The summer sub period catch rates were relatively high but slowed down and did not close prematurely. The fall fishery was on par with recent history. The fishery did close prior to the end of the period. J. McNamee stated that the DFW was not proposing any changes to the commercial fishery, in particular given that the species was currently undergoing a benchmark stock assessment update which could dramatically impact the stock status and the mechanism by which stock status is determined.

J. McNamee went on to discuss recreational fishery performance in 2013 as well as recent history. He gave some perspective on the fishery by breaking the data down to wave specific and mode specific data. The summary of this information is that the large harvest spikes are occurring in the later waves, 5 and 6, and that the majority of the landings are occurring in the private/rental boat mode. As far as stock status was concerned, there was no new information at this point in time. The reason as noted above was because tautog was going to a benchmark assessment in 2013 - 2014, therefore none of the assessments (regional or coastwide) were run so that the technical committee members could concentrate on the assessment needs. J. McNamee finished by indicating that the DFW was not proposing any changes to the recreational regulations for the 2014 season. He did caution that due to high catch rates in the past few years (with the exception of 2011) he anticipated having to make changes in the coming years.

R. Hittinger asked if there were any comments, questions, or alternate proposals from the meeting participants to change tautog management in the tautog fishery in 2014. There were no

commercial comments from the panel. J. Barker asked some clarifying questions about data collection and assessment, which J. McNamee answered. R. Hittinger asked for a little more detail on the need to change given the increases in harvest. J. McNamee stated that this was just a sense that he had, but would not know anything conclusively until the assessments were concluded and peer reviewed. At this point they were not even sure which type of assessment would be used.

M. Bucko offered a proposal. **He made a motion to open the fishery earlier than the current April 15 start date, and proposed to open the fishery on April 1.** This would provide benefits to the shore fishery as well as providing an early season opportunity to bait and tackle shops. It also lined harvest up with the current MRIP sampling timeline, which was an additional benefit in his view. The motion was seconded. S. Medieros supported the proposal saying it benefitted the bait shops but would have very little impact to the fishery as catch rates are low this early in the season. There was a discussion about how this would open the recreational fishery before the commercial fishery. J. Rainone stated that if they were going to do this they should have a special season for the party and charter vessels as they were also only a very small proportion of the harvest as well, but a customized season could benefit that industry as well. R. Hittinger took a vote on the motion. **The vote was 4 in favor, 1 opposed.**

The group revisited some of the commercial discussion. **G. Latos stated that they should take the overage out of the summer sub period rather than taking it off the top of the entire quota at the beginning of the year as this was an underutilized sub period. There was a second to the motion.** B. Morris asked to discuss slot limits as well. The group discussed slot limits briefly, with J. McNamee stating that there could be benefits, but the analysis he did indicated that the slot would have to be very small, 1 to 2 inches, to be effective. This was not acceptable to the panel. **R. Hittinger took a vote on the motion, the vote was 4 to approve with 1 abstention.**

J. Rainone suggested that they should increase the bag limit earlier in October. The panel did not take up this proposal.

There was one final clarifying question asked. C. Donilon wanted to know why 2011 had such a low harvest amount. He knew the harvest amount was not true and feared that this low harvest amount could impact the state negatively. There was discussion on this question mainly about the foibles of MRIP, but there was no resolution to this question.

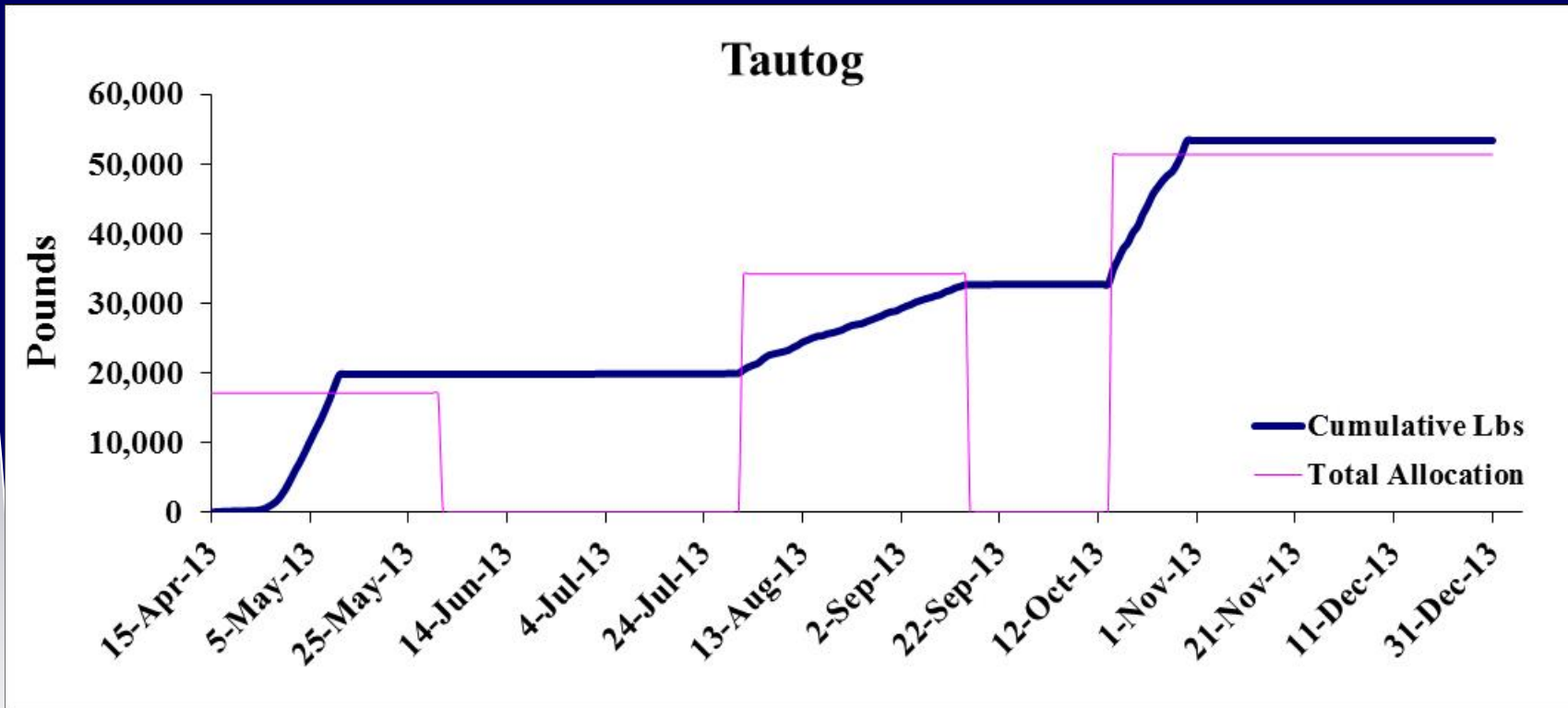
R. Hittinger adjourned the meeting at this point.

# Summary of the Rhode Island Commercial and Recreational Tautog Fishery





# Commercial Landings



- ◆ Overage in Spring of 2,715 lbs
- ◆ Overage of 1,874 lbs for year



# Commercial Quota 2014

<b>Period</b>	<b>Period Allocation</b>	<b>Quota Allocation</b>
<b>Year 2014</b>		<b>51,348 lbs – 1,874 lbs overage</b>
<b>Apr 15 – May 31</b>	<b>33.3%</b>	<b>16,491 lbs</b>
<b>Jul 15 – Aug 29</b>	<b>33.3%</b>	<b>16,491 lbs</b>
<b>Oct 15 – Dec 31</b>	<b>33.3%</b>	<b>16,492 lbs</b>



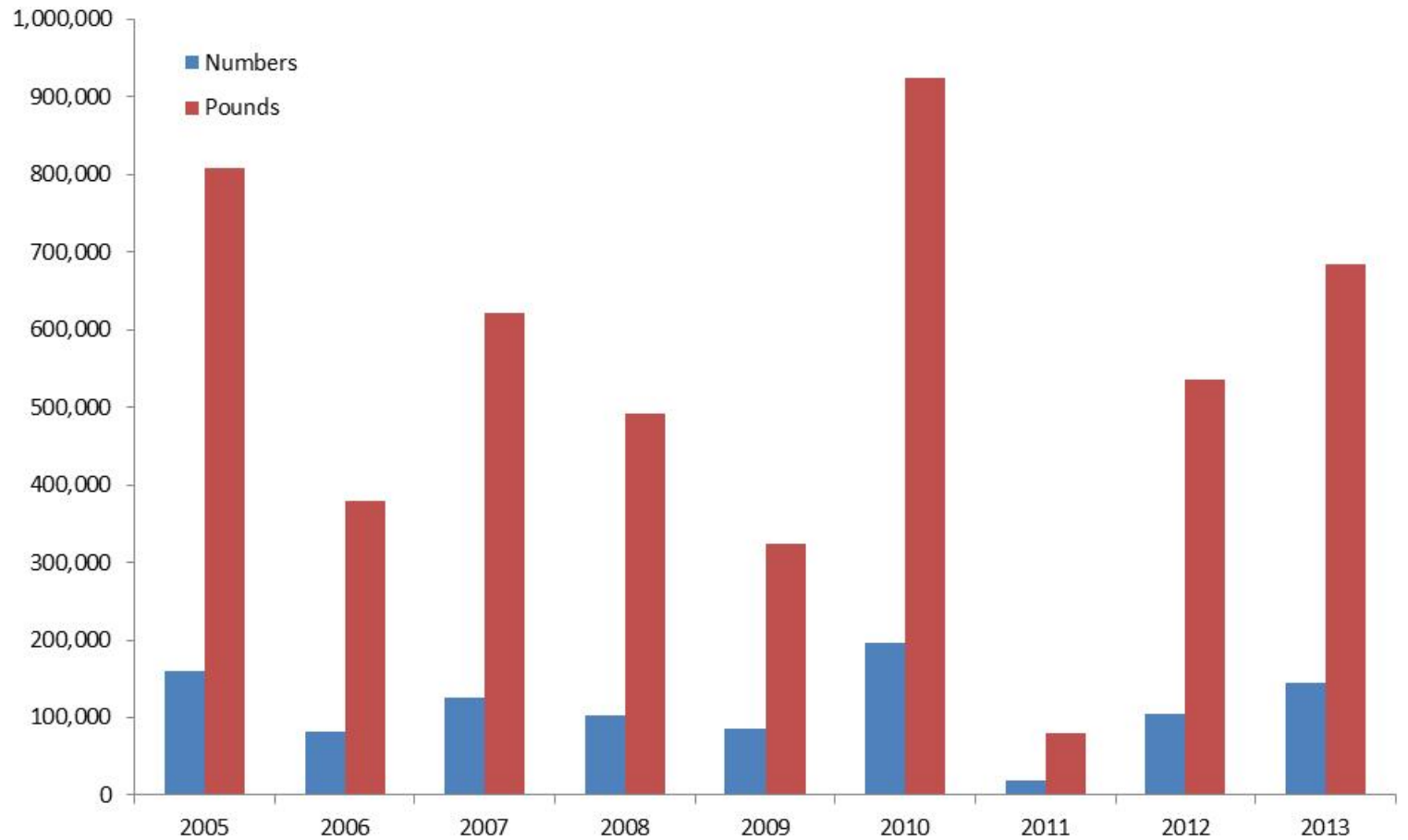
# Division of Fish and Wildlife Proposed Changes

- ◆ **The RI Division of Fish and Wildlife proposes no changes to the commercial fishery in 2014**
- ◆ **Commercial landings are constrained by a quota**
- ◆ **Only represents approximately 9% of the total state harvest of tautog**



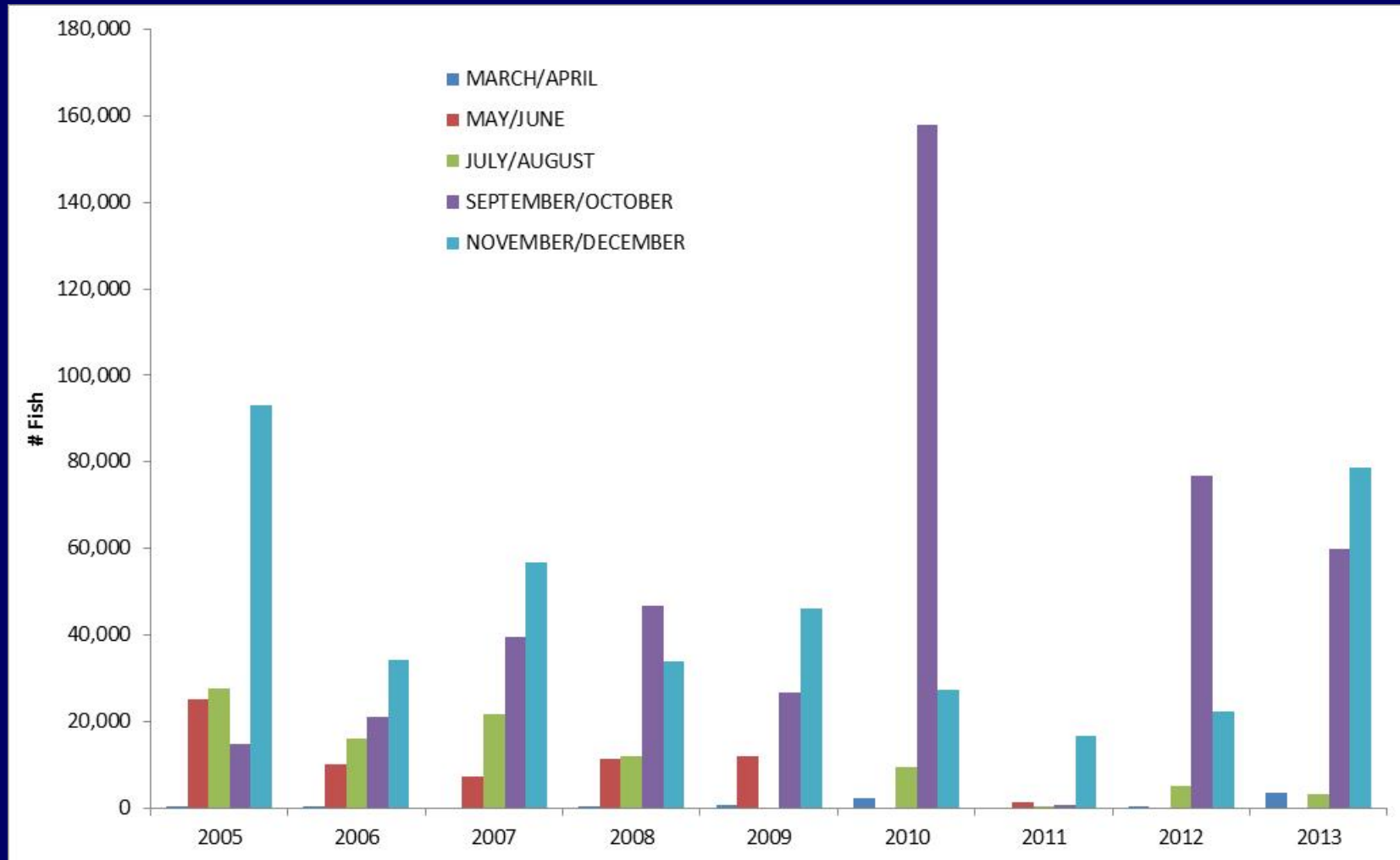
# Recreational Harvest - Tautog

**\*Note: 2013 data preliminary, all waves represented**



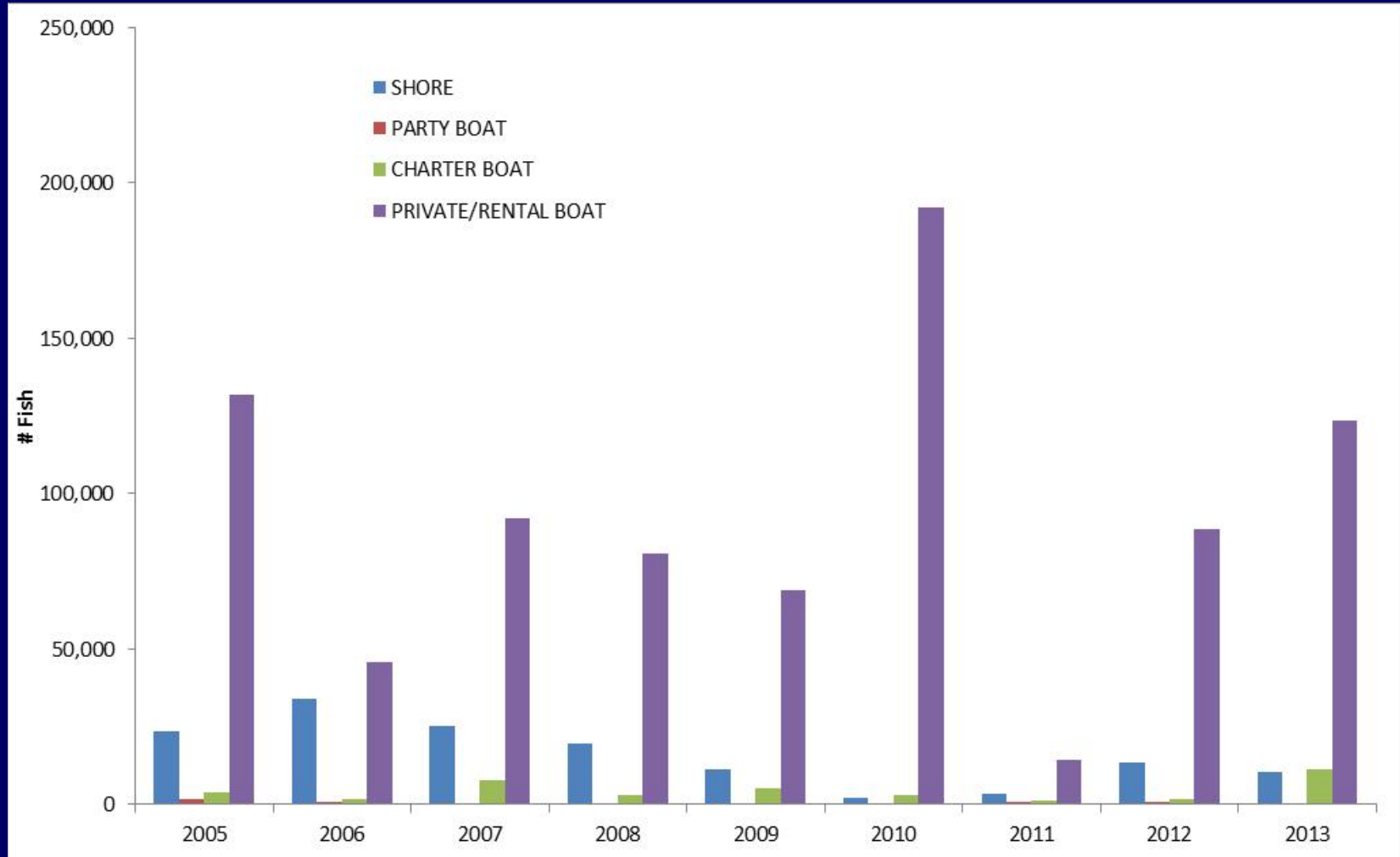
# Recreational Harvest By Wave – Tautog

\*Note: 2013 data preliminary, all waves represented



# Recreational Harvest By Mode – Tautog

\*Note: 2013 data preliminary, all waves represented



# Stock Status – Tautog

- ◆ **The tautog stock coastwide: overfished, overfishing occurring according to output of 2011 stock assessment update**
- ◆ **The tautog stock regional: overfished, overfishing not occurring according to output of 2011 regional stock assessment update**
- ◆ **A benchmark assessment is currently underway, therefore no assessment updates were performed in 2013**
- ◆ **Alternative models will be tested in this benchmark**
  - ◆ **Coastwide VPA for continuity**
  - ◆ **Statistical catch at age with regions**
  - ◆ **Data Poor Methods:**
    - ◆ **Depletion Based Stock Reduction Analysis (DBSRA)**
    - ◆ **Depletion Corrected Average Catch (DCAC)**
    - ◆ **Bayesian State Space Surplus Production Model**



# 2013 Rhode Island Tautog Recreational Measures

- ◆ **All Modes:**
  - ◆ **Minimum size = 16"**
  - ◆ **Season: April 15 – May 31 at 3 fish**
  - ◆ **Season: June 1 – July 31 CLOSED**
  - ◆ **Season: August 1 – October 19 at 3 fish**
  - ◆ **Season: October 20 – December 15 at 6 fish**
  - ◆ **A vessel max of 10 fish in place for all open periods**
  - ◆ **P+C sector does not have a vessel limit but must report to eLogbook**





# Division of Fish and Wildlife Proposed Changes

**The RI Division of Fish and Wildlife does not recommend any changes at this time given that a new benchmark is underway that is testing some spatially structured models**

**Future management may be needed given recent high landings rates, but this will not occur until 2015 at the earliest and will be based on the outcome of the assessment**



## **RECOMMENDING CHANGES TO TAUTOG MEETING February 20,2014**

**I recommend changing the open season from April 15 to April 1, 2014 same bag limits and size limits.**

### **Reasoning:**

**The recreational tautog spring fishery is most done by shore mode fishermen. The shore mode fishermen are being shut out of the recreational fishing. In the past years the shore tautog harvest have caught a lot less the private boat mode. The loss of winter flounder fishing, regulation size limits on summer flounder have been reducing catch from shore and migration change with schools of mackerel which no longer arriving on the shores of Newport, RI. In a report I wrote in 2010 call "Rhode Island Saltwater Shore Anglers Diminishing Access to Fishery Abundance".**

**A) Any reduction in harvest of Tautog, Scup, Striped Bass and Blue should have only minimal impact in the shore mode.**

**B) Find a way to change current regulation from species that shore fishermen have lost access too because of regulatory means.**

**Moving the date to April 1<sup>st</sup> is the right thing to do so we can provide shore fishermen more access. The increase in harvest will be negligible. It would provide individual or family to enjoy a nice weekend day in the beginning of April, the ability to go to the beach in hopes of catching supper. This would increase effort but not catch.**

**Michael J Bucko  
155 Brackett Ave  
Tiverton, RI 02878  
mjbucko@mindspring.com**

**RIMFC Ad hoc Whelk Committee**  
**Thursday, February 20, 2014**  
**Coastal Institute / Hazard Room A**  
**6:00 – 9:00PM**

**Meeting Participants:**

Jeff Grant (Chair), Ronald Major, Ken Murgo, Ken Murgo, Jr., Remus Saccoccio, Greg Mataronas, Daniel Eagan, Katie Eagan, Daniel Eagan, Jr., Robert Morris, Bill Blank, David Ghigliotty, Gerry Schey, John McDonald, Seamus Sullivan, Dr. Kathy Castro, Mark Gibson, Thomas Angell

Meeting convened at 6:05PM. There were 18 people in attendance.

**Meeting Agenda:**

**1. Review RIDFW report “Size and Age at Sexual Maturity and Growth of the Channeled Whelk (*Busycotypus canaliculatus*) and Knobbed Whelk (*Busycon carica*) in Narragansett Bay, Rhode Island and Implications for Whelk Fishery Management”**

- a. Discuss report data, implications, and RIDFW recommendations for 2014 whelk fishery management.

T. Angell reviewed the RIDFW whelk research report.

- Morphometric correlations – current minimum shell length (4.75”) is not correlated with current minimum shell width (2.75”); recommend adjusting minimum shell length up to 5” to equate to 2.75” minimum shell width
- Whelk growth – females of both species grow faster than males; channeled whelk grow faster than knobbed whelk; female channeled whelk average growth of 2/3” length and 3/8” width per year; male channeled whelk average growth of 9/16” length and 1/3” width per year
- Size at Sexual Maturity – **virtually no female channeled whelk mature at current minimum size standards**, 50% mature at 3.18” width and 5.53” length, 100% mature at 3.3” width and 6.1” length; approximately 50% of male channeled whelk mature at current minimum size standards, 100% mature at 3.15” width and 5.9” length; approximately 20% of female knobbed whelk mature at current minimum size standards; 100% of male knobbed whelk mature at current minimum size standards.
- Estimated that a 1/8” increase in minimum width will reduce the number of whelk landed by approximately 21% and pounds of whelk landed by 14%; a 1/4” increase in minimum width will reduce the number of whelk landed by approximately 38% and pounds of whelk landed by 26%; a 3/8” increase in minimum width will reduce the number of whelk landed by approximately 21% and pounds of whelk landed by 14%; a 1/2” increase in minimum width will reduce the number of whelk landed by approximately 65% and pounds of whelk landed by 51%
- RIDFW recommends adjusting the minimum length standard to correlate with the minimum width standard
- Updated whelk stock assessment indicates a 30% reduction in the fishing mortality rate (F) is needed to stay at  $F_{msy}$ , if we remain at the current minimum sizes.

Committee Comments / Questions:

- Do these whelk species change their sex as they get older/larger? Males become females at a particular size/age? This is reported for knobbed whelks in more southern waters (North Carolina?), but has not been verified.

T. Angell responded that he has not seen any evidence of this with the whelks in this area; may be some evidence of changing sexes due to chemical pollution, particularly TBT (tributyltin); both whelk species appear to be dioecious (separate sexes) in our area.

- Current regulations manage both of these whelk species as if they were one; data indicates that separate management of these species may be warranted; **recommendation to manage these whelks separately.**

M. Gibson responded that the commercial whelk fishery is dominated by channeled whelk which account for 95% of the total whelk landings.

T. Angell commented that if we want to manage these whelk species separately, then they must be separated and sold to the dealer as separate species.

- Concerns expressed that only 1 year of research does not provide enough information to make management decisions
- Concerns expressed about what could happen to other shellfisheries if the whelk populations were allowed to increase; these whelks eat quahogs, mussels, and other bivalve molluscs
- Concerns expressed about the adverse affects of otter trawl gear damaging/destroying whelk egg cases
- Need information on whelk diet (all size ranges)
- Comment that the maximum size of a whelk may be area-specific
- What is the management objective for this fishery?
- Request/suggestion made to round-off the proposed minimum length(s) upward to the nearest 1/8"; T. Angell will make the changes.
- Comment to keep the daily possession limit at the status quo until the updated whelk stock assessment has been prepared and made available.
- Concerns expressed regarding ability for more license holders to participate in the whelk fishery; how can the number of whelk fishery participants be capped?

T. Angell responded that it is not possible to cap the number of whelk fishery participants due to the multi-purpose license and the large number of "latent" multi-purpose license holders that could decide to become whelk fishery participants.

- **Committee requested that copies of the whelk stock assessment report be sent as soon as the report is completed.**

b. Review of RIDFW proposed management options:

4.35(c), 4.35(d), 4.35(e) – Unauthorized Hauling of Conch Pots, Unauthorized Possession and/or Transfer of Conch Pots, Hauling or Setting Conch Pots at Night:

4.35(c) and 4.35(d) are "universal" regulations for pot/trap gear in our regulations.

4.35(c) and 4.35(d) prohibit someone from hauling or possessing someone else's pot/trap gear without the pot/trap gear owner's permission and 4.35(e) prohibits anyone from hauling or setting conch pots at night.

- 4.35(c) – Unauthorized Hauling of Conch Pots  
**Committee had no objection to this regulation; recommend adopting**
- 4.35(d) – Unauthorized Possession and/or Transfer of Conch Pots

**Committee had no objection to this regulation; recommend adopting**

- 4.35(e) – Hauling or Setting Conch Pots at Night

**Committee had no objection to this regulation; recommend adopting**

Question regarding requirement for buoy markings (buoy colors) for conch pots; concerned that this is not required for conch pots.

Question regarding the use of pot number or license number when marking buoys; it is the license number that is required by the current regulations.

- 4.35(f) – Commercial and Recreational Season:

Question – Will the closed season apply to otter trawl fishermen as well?

T. Angell responded that the closed season would apply to everyone no matter if you are commercial or recreational and no matter what fishing gear is used; no fishing for whelk during the closed season.

Question – Will conch pots be required to be removed from the water during the closed season?

M. Gibson commented that we could also consider **closed areas** for conch fishing, but that option is not part of the proposed regulations at this time; DFW does not have the data at this time to consider closed areas for conch fishing.

Comment that there is currently a directed otter trawl fishery for whelk in certain parts of Narragansett Bay.

Concerns expressed that otter trawlers are damaging/destroying the whelk egg cases.

Comment that the knobbed whelk is an underutilized species.

**After discussion, the majority of the committee recommended Option #1 (status quo) for keeping the fishery open year-round.**

- 4.35(g)(1) – Legal Minimum Size:  
Committee Discussion / Comments / Questions:

M. Gibson commented that the information regarding size at maturity is the most compelling evidence that an increase in the minimum size is needed; if the committee is opposed to increasing the minimum size, then the committee needs to decide which other management option(s) they are willing to accept; M. Gibson does not believe that the Director will “do nothing” regarding whelk fishery management for 2014.

**Concerns expressed that there is not a measurement tool available to determine legal size accurately; whelks are not symmetrical and are difficult to measure accurately; concerns expressed about consistency of the minimum width measurement and variability among fishermen regarding how this measurement is made.**

Question – Has the conch fishery been officially declared to be over-fished?

M. Gibson responded that the official/completed stock assessment report has not been presented to the Director yet, but all of the DFW calculations indicate that it is; the overall fishing mortality rates have recently crossed over the overfishing limit; state law requires DEM/DFW to adopt regulations to stop overfishing.

Comment that the reproductive potential for larger female whelks is unknown.

Question – Are licenses still available for people to enter the whelk fishery?

J. Grant responded that they are, but restricted to people with an active quahog license and renewal of previous year's conch endorsement.

T. Angell commented that the committee could recommend a license moratorium for the whelk fishery, but currently no way to control any of the multi-purpose license holders from participating in the whelk fishery.

Question/Request – Can the committee see the stock assessment report and the evidence for overfishing?

M. Gibson responded “yes”, but the first principle of overfishing is evident in that there are no mature female channeled whelks at the current minimum size.

Comment that there are plenty of other species that are managed without the females being mature.

M. Gibson responded that he was not aware of any fisheries that did not take size at maturity into account when setting a minimum size; cannot have a viable fishery if animals are being taken before they get a chance to reproduce.

Comment that there is not enough data to make a determination on the size at maturity; need more years of research and data collection.

M. Gibson commented that biological attributes such as the size at maturity do not change from year to year; species have evolved for a particular reproductive strategy and do not change quickly; the “boom and bust” nature of the whelk fishery is due to the lack of an appropriate minimum size to protect some adequate proportion of mature females that can reproduce and help sustain the population; this has happened to conch/whelk/gastropod mollusc fisheries all over the world; there are multiple sources of data that show that the whelk fishery is headed into the “bust” part of the cycle; need to manage this fishery so that it is sustainable.

Comment that putting in management measures to protect the whelk fishery will have adverse effects on the other shellfisheries in Narragansett Bay (quahogs, mussels).

Comment that research needs to be done regarding the diet of whelks and how much shellfish they eat; the quahog fishery is extremely important to RI shellfishermen.

M. Gibson commented that our laws do not allow us to sacrifice one species for the benefit of another; we are not at the point where we can manage the “ecosystem”.

K. Castro commented that Dave Bengston is thinking about a predator-prey model for whelks and quahogs; whelk-quahog dynamics for multispecies modeling.

Comment that other states (CT) value their quahog fishery more than their whelk fishery; which fishery does RI value more?

M. Gibson responded that it is not DEM/DFW's responsibility to worry about the market; we are required by law to manage the fisheries so that they don't get overfished and for "equitable and sustainable use".

K. Castro commented that the existing data is a good start, but there are certain gaps in the data that need to be addressed by further research; need to identify areas of research that are currently lacking.

Need to identify the objectives of the management plan; are we managing the economics? social issues? biological attributes? Answering this question will determine which management measures should be implemented.

T. Angell reviewed the draft proposed regulatory options for minimum size(s); three draft options for minimum size increases were presented and considered by the committee.

Question regarding the size dimorphism of male and female whelks.

T. Angell responded that the data indicates that males do not grow as large as females.

Comment that increasing the minimum size would put proportionally more fishing pressure on the female whelk due to this size dimorphism.

Discussion of a potential maximum size limit for whelk; this could potentially be beneficial for increasing spawning stock biomass, but the fishing mortality rate on the sizes between the minimum and maximum size needs to be low enough to allow the whelks to be able to grow and actually make it to the maximum size and become protected.

T. Angell suggested rounding-off the proposed minimum shell width sizes to the nearest larger 1/8"; the committee approved of this revision.

Question regarding the current status of the fishery in relation to the overfishing threshold and if a combination of management measures could be used to address overfishing; **How far do we really have to go with minimum size increases to eliminate overfishing? Do we really need to go all the way up to a 3-1/4" minimum width and 5-3/4" minimum length to stop overfishing?**

M. Gibson responded that the current stock assessment indicates that overfishing is occurring; if the desire is to address this with increases in the minimum size only, then the minimum size increases will have to be fairly aggressive; if the desire is to keep the current minimum sizes (with the revision for a 5" minimum length), then fishing mortality would need to be reduced by about 30% (could use season, quota to do this); catch needs to be reduced via some mechanism; the sustainable fishing mortality rate for whelk is  $F=0.3$ ; whelk are not highly-productive animals in terms of their reproductive capacity; the life history of these whelks does not support an intense fishery and is responsible for the "boom and bust" nature of this whelk fishery and whelk/gastropod fisheries around the world.

Comment that it would make more sense to raise the minimum size than to institute a maximum size.

M. Gibson commented that whelk landings were on an upward trend when the landings were around 300,000 pounds (2006-2008), then peaked at about 750,000 pounds (2009-2012) and started a downward trend (2013-?); this suggests that a whelk harvest of about 500,000 pounds may be sustainable at current minimum sizes.

Question – What other data could be collected that would help to determine the status of the whelk stock? Is CPUE data available?

M. Gibson responded that we currently only have catch-per-trip as a CPUE index; data regarding catch-per-trap has only recently started to be collected, but will be useful at some point in the future.

**M. Gibson commented that an industry-based survey would be helpful in supplying data for the stock assessment model; a survey that is spatially-stratified.**

**The gap between the current minimum size and the size at maturity needs to be closed.**

Question – What is the proportion of each whelk species in the landings data?

T. Angell commented that there are relatively large landings of whelk that are unclassified regarding which species they are; if we want to manage these species separately, then the landings need to be classified by species.

**Committee recommended keeping both the width and length minimum size measurement options.**

**Committee was not in favor of any of the draft DFW proposed options and proposed 2 alternative options for consideration at the March 25<sup>th</sup> public hearing.**

- **J. Grant asked the committee if anyone wanted to keep the status quo of 2-3/4” width and 4-3/4” length; none of the committee supported this option.**
- **Option proposed for minimum sizes of 2-3/4” width and 5” length in Y2014, with continued study during 2014 (status quo). (5 people in favor of this option)**
- **Option proposed for a minimum size of 2-7/8” width and 5-1/8” length for Y2014, with continued study during 2014. (6 people in favor of this option)**
- 4.35(h) – Fishery Closure due to Eminent Public Health Risk (Biotoxins):  
This is more of a precautionary measure than anything else; MA has regulations for this and NOAA has recently instituted rules for this; RI has not had an issue with biotoxins for 35-40 years. This issue was brought to our attention by Water Quality office. No evidence at this point for accumulation of biotoxins by whelk.

Comment that this issue needs more information before a decision can be made; recommend that DFW look into this issue more closely and see if there is evidence to support adoption/implementation of this regulation.

Recommend testing of the whelks in our waters.

- 4.35.1-2 – Commercial Possession Limit:  
Comment/question if these 2 species of whelk are going to be managed separately? May have different possession limits for the 2 whelk species.



Comment that reducing the commercial possession limit may reduce landings, but you still need to cap the number of participants in the fishery to make it really effective.

**Committee recommended status quo (35 bushels daily possession limit) for this regulatory option until more information from the stock assessment is provided.**

- 4.35.1-4 – Commercial Conch Quota / Annual Catch Limit:  
**Committee recommended (unanimous) that no commercial quota/annual catch limit be considered (status quo) until more data on this option is made available and had the opportunity to be discussed.**

Comment that it is difficult to make decisions without the information that the stock assessment will provide.

- 4.36, 4.37, and 4.38 – Violations for non-compliance, Penalties, and Appeals:  
T. Angell commented that the entire regulations package is going through a re-write and these regulations are just a consolidation of the regulations for non-compliance, penalties, and the appeals process.  
No committee action is required to address these regulations.

Question was raised about the omission of a proposed regulation for reducing the commercial conch pot limit and tagging of conch pots.

T. Angell responded that this was removed from consideration at this time due to uncertainties about how the conch pot tagging program would be administered; anything to do with tagging of anything other than lobster traps has been put to the side for now.

Question about the ability to fish more than one conch license from a single boat.

T. Angell responded that there are no regulations that prohibit this activity.

J. Grant responded that you are limited to 2 licenses/boat if you are in a shellfish management area.

**The public hearing for these proposed regulations is on March 25<sup>th</sup> at 6:00pm in Corless Auditorium, URI Bay Campus.**

**c. Committee recommendations for 2014 whelk fishery management.**

- **Recommend to adopt regulations 4.35(c), 4.35(d), and 4.35(e)**
- **Manage whelk species separately**
- **Keep both width and length minimum size standards**
- **Add public hearing option for minimum size of 2-3/4” width and/or 5” length in Y2014, with continued study during 2014 (status quo). (5 people in favor of this option)**
- **Add public hearing option for a minimum size of 2-7/8” width and/or 5-1/8” length for Y2014, with continued study during 2014. (6 people in favor of this option)**
- **Recommend status quo regarding commercial possession limit (35 bushels); no stock assessment information made available to propose alternative options**
- **Committee does not recommend adoption/implementation of the proposed regulation regarding a whelk fishery closure due to eminent public health risk**

**from biotoxins; committee needs more information about this in order to make a recommendation**

- **Committee opposed to a commercial conch quota/annual catch limit at this time; no stock assessment information made available to propose alternative options**

**2. 2014-2016 Sea Grant Whelk Research Project discussion.**

K. Eagan summarized the purpose of this research project.

- Cooperative whelk research project starting this year; funded by RI Sea Grant.
- Part of the development of the Shellfish Management Plan.
- Forming a Whelk Fishermen's Association as part of this project
- Looking for 20 fisherman participants for this research; real-time data collection and availability to researchers and fishery managers
- Collect more data to help manage the fishery
- **First project meeting scheduled for March 19th**
- Gather local knowledge about the whelk resource and fishery
- Letters regarding this research project sent out to anyone who reported whelk landings in Y2013

**Request was made for DFW to make the stock assessment report available to the committee prior to the March 19<sup>th</sup> meeting and March 25<sup>th</sup> public hearing.**

Meeting adjourned at 8:55pm.

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**Follow-up items:**

- T. Angell will prepare a document of the committee recommendations to be presented at the March 25<sup>th</sup> public hearing.
- T. Angell will investigate the reasons/evidence for the proposed regulation for a conch fishery closure due to eminent public health risk from biotoxins.
- Request for copy of DFW whelk stock assessment report to be available prior to/for March 19<sup>th</sup> Sea Grant Whelk Project meeting (and March 25<sup>th</sup> RIMFC Public Hearing).



# Council Report

February 2014

The Council Report summarizes major actions approved at NEFMC meetings or highlights items of interest to stakeholders.

At its January 28-30, 2014 meeting, the Council:

- Took final action on sea scallop, monkfish and skate specifications;
- Voted on the spiny dogfish specifications;
- Approved next steps for Herring Amendment 4;
- Approved elements of Groundfish Amendment 18; and
- Approved the alternatives in the Industry-Funded Monitoring Amendment draft discussion document for analysis

## Rules Revised for Scallops, Monkfish, Skates

During its first meeting of 2014, held in Portsmouth, NH on January 28-30, the New England Fishery Management Council took action on rules that will affect the participants in three important east coast fisheries --- the sea scallop, monkfish and skate fisheries.

Below is a brief summary of some, but not all of the changes proposed by the Council to NOAA Fisheries. The agency, on behalf of the Secretary of Commerce, provides final approval and implements all regional council fishery management actions that affect U.S. federal waters.

## Projected Scallop Catch Close to Last Year's Level

### Specifications for Fishing Years 2014-2015

- Thirty-one days-at-sea in open areas; and
  - \* Two 12,000 pound access area trips for full-time vessels. Each vessel would be allocated one trip in the Delmarva Area (in the Mid-Atlantic) and one trip in either the Nantucket Lightship (Lightship) Area or Closed Area II (CAII) to be allocated by lottery.
  - \* The trip allocated for Delmarva is voluntary. Full-time vessels can choose to use that access opportunity in the Delmarva Area up to 12,000 pounds, or fish five additional days-at-sea in open areas with no access in Delmarva. If the latter, a full-time limited access vessel would be allocated 36 days-at-sea (thirty-one days plus five days) and one access area trip in either the Lightship Area or CAII.
- Total projected catch from all sources (including set-asides and limited access general category IFQ of about 2.2 million pounds) is 17,254 metric tons, or 38 million pounds. This is about the same projected catch as last year.

### Closed Area I Trips

*Unused 2012 CAI trips* could be used in the CAI access area when it reopens after the EFH Omnibus Amendment is implemented. This opportunity would be limited to vessels that have submitted a broken trip adjustment sheet and qualify for a broken trip only. *Unused 2013 CA I trips* could be used in CAI when it reopens after the EFH Omnibus Amendment is implemented. Vessels do not have to submit a broken trip adjustment sheet for unused 2013 trips.

### Windowpane Flounder Accountability Measures

The approved reactive accountability measure (AM), took the form of a seasonal gear restricted area that is expected to address overages of the windowpane flounder annual catch limit. Included are all waters west of 71W, but excluding the scallop access areas. If AMs are triggered and the scallop fishery overage is estimated to be greater than 0 and less than 20%, the AM would be in place for the month of February. An approved proactive measure would prohibit a scallop dredge vessel from having more than seven rows of rings in the apron in all waters west of 71W, again, not including the Mid-Atlantic access areas.

*Monkfish is not overfished nor is overfishing occurring. Its tails are prized by U.S. chefs, while the cheeks and livers are popular in Europe and Asia.*

If approved, Skate Framework 2 would remove the unclassified skate bait VTR reporting code.

The following VTR and dealer codes would be available for vessels reporting skate bait landings:

1. Winter Skate
2. Little Skate
3. Little/Winter Skate
4. Barndoor Skate
5. Smooth Skate
6. Thorny Skate
7. Clearnose Skate
8. Rosette Skate

## Monkfish Framework 8 Moves Ahead

The monkfish resource off the eastern seaboard is jointly managed by the New England and Mid-Atlantic Fishery Management Councils. The Mid-Atlantic Council will take final action this week, on Feb 11-13, 2014, in New Bern, NC. The NEFMC approved the following at its meeting:

- For the Northern Fishery Management Area - 46 days-at-sea with an incidental trip limit when fishing under a groundfish day-at-sea of 600 pounds per day for vessels with C permits, and 500 pounds per day for vessels with D permits.
- For the Southern Fishery Management Area - 32 days-at-sea with a daily landing limit of 610 pounds per day for vessels with A and C permits, and 500 pounds per day for vessels with B, D and H permits.
- A modification to days-at-sea use requirements to allow the use of monkfish-only days at any time during the fishing year in both the Southern and Northern Fishery Management Areas.
- If implemented, permit category H vessels may fish on a monkfish DAS throughout the Southern Fishery Management Area.

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## Skate Specifications in Framework 2 Approved

The following catches, were approved by the NEMFC for fishing years 2014-2015:

- A revised annual catch limit of 35,479 metric tons or about 78 million-plus pounds;
- A wing possession limit of 2,600 pounds from May 1-August 31, and a limits of 4,100 pounds from September 1-April 30; and
- A 25,000 pound bait possession limit.

The Council also requested that NOAA Fisheries establish a control date for the skate fishery for uses other than bait. Control dates have generally been used to limit speculative entry into a fishery if a limited entry management program were to be adopted in the future.

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## NEFMC/MAFMC Differ on Dogfish Trip Limit in 2014-2015 Specs

The Council approved the following measures for the 2014-2015 spiny dogfish specs:

- 1) For 2014, an ACL/ACT of 60.695 million pounds and a commercial landings quota of 49.037 million pounds;
- 2) For 2015, an ACL/ACT of 62.270 million pounds and commercial landings quota of 50.612 million pounds;
- 3) To eliminate the 4,000 pound trip limit; and
- 4) To allow up to 3% of the commercial quota in 2014 and 2015 to be allocated to the research set aside program.

In contrast, the MAFMC had recommended keeping the 4,000 pound trip limit with the result that the NMFS Regional Administrator will have to choose between the differing recommendations under the rules in place for the Spiny Dogfish FMP.

## Herring Amendment 4 - More Details Approved

The Council approved, for further development, a range of alternatives that will be included in Framework 4 to the Herring FMP. They will address dealer weighing requirements and measures to address net slippage. The intent is to rework measures that had been part of Amendment 5 to the FMP, but were disapproved by NOAA Fisheries last year.

Based on approved Council motions, the dealer weighing provisions call for accurate and verified catch weights, with specific standards, and the development of industry weighing and handling standards to support these alternatives.

The specifics outlined to address net slippage included several “move along” options (i.e. relocate to another area). Exemptions to the requirement were also identified for consideration. At this writing they include safety issues, mechanical failures and encounters with dogfish schools. Several other options were approved for further development; a prohibition on operational discards for midwater and bottom trawl vessels; and trip termination if a non-exempted slippage event occurs. Additionally, the Council will consider whether the Framework 4 measures would apply to: 1) all limited access herring permits; or 2) only Category A and B vessels when on a declared herring trip.

### *ASMFC Herring Board Initiates New Herring Amendment at its Winter Meeting*

The draft amendment is intended to more fully protect spawning herring in Area 1A, located in the inshore Gulf of Maine.

## Amendment 18 Issues Clarified

### **Handgear A Proposal**

After several months of discussion, the Council, at its January meeting voted to include several measures in Amendment 18 to the Northeast Multispecies FMP initially proposed by the Northeast Hook Fisherman’s Association (NEHFA). Specifically, it voted to include nine proposal provisions to be analyzed as an alternative in the Amendment, including proactive and reactive accountability measures.

NEHFA members have asked that the cod catch history associated with Handgear A permits be separated into a handgear-specific fishery with its own sub-annual catch limit (sub-ACL). The intent is that the sub-ACL be used by handgear fishermen harvesting in a program distinct from sectors or the common pool, or sector fishermen if using handgear. This separate program would, in part, have an annual vs. the current trimester catch limit for the common pool, and not be subject to the March 1-20 handgear fishing closure. Apart from a grandfathering provision, these measures would ensure that the catch history associated with Handgear A permits would be used by the active handgear fishery.

### **Permit Banks**

In other decision-making, the Council passed a motion “That non-profit entities (private permit banks) holding permits for the purpose of leasing ACE, or annual catch entitlements, to active fishermen be referred to as “non-profit permit banks” thereby distinguishing them from other private entities that lease ACE.” The Council also approved a definition for non-profit permit banks: 1) It is a partnership, voluntary association, or other non-profit entity established under the laws of the U.S.; 2) It is eligible to hold Northeast Multispecies permits/MRIs; 3) It maintains transparent qualification criteria and application processes for the distribution of ACE to fishermen; and 4) It must distribute ACE to at least three distinct business entities in any fishing year.

### *More on Amendment 18*

The Council agreed, via several motions, to develop upgrade restrictions through an omnibus amendment in collaboration with NOAA Fisheries. Consideration will also be given to developing an omnibus action to remove or change vessel length and horsepower provisions under the next priority-setting discussion (November 2014). Meanwhile the Council will raise the issue with its management partners.

**NEW ENGLAND  
FISHERY  
MANAGEMENT  
COUNCIL**

50 Water Street,  
Mill 2  
Newburyport,  
MA 01950

Phone: 978.465.0492  
Fax: 978.465.3116  
www.nefmc.org

For more information about this publication please contact Patricia Fiorelli at pfiorelli@nefmc.org or 978 465 0492 ext. 106.

The New England Fishery Management Council is one of eight regional organizations created by the Magnuson-Stevens Fishery Conservation and Management Act, initially enacted in 1976.

The Council develops rules for both commercial and recreational fisheries that operate between three and 200 miles off the region's coastline. NEFMC management authority extends to fishing grounds in the Gulf of Maine, Georges Bank and southern New England and overlaps with the Mid-Atlantic Council for some species.

### **Omnibus Amendment for Industry-Funded Monitoring**

After reviewing a discussion document, the Council approved draft alternatives for further analysis in this action. These included cost-sharing provisions between the government and fishing industry, a process for prioritizing additional monitoring needs, observer coverage targets for the Atlantic herring and mackerel fisheries, and provisions for approving service providers.

This amendment, which would establish a program for industry-funded monitoring across all federally-managed fisheries in the Northeast Region, is being prepared jointly by the Greater Atlantic Regional Fisheries Office and the New England and Mid-Atlantic Councils.

**Next Council Meeting  
February 25-26, 2014  
DoubleTree by Hilton Hotel  
50 Ferncroft Road  
Danvers, MA 01923**

NOAA Fisheries has changed the name of the Northeast Regional Office to the Greater Atlantic Regional Fisheries Office. This action is at the direction of Congress to better reflect the broad extent of the region, which spans from Maine to North Carolina and includes the Great Lakes.