



Rhode Island Marine Fisheries Council

3 Fort Wetherill Road Jamestown, Rhode Island 02835

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

RIMFC: Robert Ballou, *Chairman*; David Monti, *Vice Chair*; Jeff Grant; William Mackintosh, III; Michael Rice, Ph.D.; Christopher Rein; Andy Dangelo; Mike Roderick; Travis Barao

MEETING NOTICE RI MARINE FISHERIES COUNCIL

October 1, 2018 – 6:00 PM

URI Narragansett Bay Campus, Coastal Institute Building

Corless Auditorium

South Ferry Road, Narragansett, RI

AGENDA

Agenda item	Recommended action(s)	ePacket Attachment(s)
1. Tonight's agenda	Approval of agenda.	<ul style="list-style-type: none"> • October 1, 2018 meeting agenda
2. Meeting minutes June 26, 2018	Approval of meeting minutes.	<ul style="list-style-type: none"> • Meeting minutes
3. Meeting minutes August 30, 2018	Approval of meeting minutes	<ul style="list-style-type: none"> • Meeting minutes
4. Public comment	Discussion and/or recommendations for future action.	
5. <u>2019 Sector Management Plan:</u> <i>J. McNamee</i>	Recommend adoption of updated plan	<ul style="list-style-type: none"> • Guiding statute • Draft plan
6. <u>September 10 public hearing items:</u> <i>J. McNamee</i>	Provide recommendations to the Director regarding proposed regulations.	<ul style="list-style-type: none"> • Public Notice • Hearing slides • Annotated regulations: <ul style="list-style-type: none"> ○ <u>Part 1- Definitions:</u> Modification, deletion, addition of terms ○ <u>Part 2 - Licensing:</u> <ul style="list-style-type: none"> ○ Summary/rationale of hearing item proposals 1.Restricted Finfish Endorsement 2.Annual due date for the public availability of the Sector Mgmt. Plan 3.Removal of language re: content and due date for the issuance of an annual report to the General Assembly on the conservation

		<p>and management of marine fisheries resources</p> <p>4. Removal the requirement that the Department provide a list of reporting requirements at the time of license issuance or renewal to applicants for commercial fishing or dealer licenses or landing permits.</p> <p>5. Removal of requirement that the Department notify license holders of a reporting deficiency via certified mail.</p> <ul style="list-style-type: none"> ○ Summary of mailings <p>6. Broaden applicability regarding the timeframe for when fishing trips must be documented.</p> <p>7. Change the timeframe that fishing trips must be documented.</p> <ul style="list-style-type: none"> ○ Definition of landing <p>8. Addition of reporting due dates</p> <p>9. Removal of requirement that license holders will be notified in writing as to the form of reports, their content, and the manner in which and frequency with which they are required to be transmitted by December 1 for the following year.</p> <p>10. Amend the date pertaining to the issuance of licenses following the application deadline.</p> <p>11. Change/clarification of procedure regarding the appeal of a license denial due to medical hardship.</p> <ul style="list-style-type: none"> ○ Guiding statute <p>12. Addition of reporting requirements for Party/Charter vessels.</p> <ul style="list-style-type: none"> ● Summary of hearing comments ● Written comments received
<p>7. <u>Industry Advisory Committee meeting summary (8/21): C.</u> <i>Rein/J. Lake</i></p>	<p>Approval of meeting minutes.</p>	<ul style="list-style-type: none"> ● Agenda ● Powerpoint presentation ● Draft meeting minutes

8. Shellfish Advisory Panel meeting summary (9/5): <i>J. Grant/C. McManus</i>	Approval of meeting minutes	<ul style="list-style-type: none"> • Agenda • Powerpoint presentation • Draft meeting minutes
9. Aquaculture lease application review - John Wescott, East Passage: <i>C. McManus/J. Grant</i>	Recommendation to CRMC.	<ul style="list-style-type: none"> • CRMC application 2018-04-087
6. Bristol Harbor Shellfish Mgmt. Area winter harvest schedule: <i>C. McManus</i>	Provide recommendation to the Director for changes to schedule.	<ul style="list-style-type: none"> • Proposal from K. Eagan
11. Deepwater/ Vineyard Wind offshore wind development: <i>B. Ballou</i>	Provide advice and/or recommendations to the Director or CRMC.	<ul style="list-style-type: none"> • Links to presentations • August 30 meeting summary
12. FYI: <ul style="list-style-type: none"> • <u>Update re: pending ASMFC/MAFMC action addressing transiting federal waters in BI Sound with summer flounder, scup, striped bass:</u> <i>B. Ballou</i> • <u>Update re: federal review of opening the Striped Bass Transit Area in BI Sound to fishing for striped bass:</u> <i>B. Ballou</i> 	FYI and/or recommendations for future action	
13. Other Business: <ul style="list-style-type: none"> • Need for special meeting on parliamentary procedures: <i>B. Ballou</i> 	Determine if meeting is desired; select date	
14. Adjourn		

All RIMFC Meetings are open to the public

Posted to Sec. of State Open Meetings on September 24, 2018



Rhode Island Marine Fisheries Council

3 Fort Wetherill Road Jamestown, Rhode Island 02835

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

MEETING SUMMARY

June 26, 2018

Chairperson: *B. Ballou (DEM)*

RIMFC members present: *D. Monti, J. Grant, A. Dangelo, T. Barao, C. Rein, J. Jarvis*

Division: *J. McNamee, S. Olszewski, E. Schneider*

DEM Legal: *C. Hoefsmit*

Public: Approximately 7-8 persons in attendance

1. **Approval of the Agenda:** *B. Ballou* added an additional agenda item entitled “*New business – change in Council membership*”, to be added as agenda item #2. He also added that *J. McNamee* would be discussing a proposed meeting of the Council with representatives from Deepwater Wind, which would be held in late summer, to be discussed at the end of the meeting under “*Other business*”. He then inquired as to any other modifications to the agenda or objections to adopting the agenda as modified; hearing none, the agenda was approved by consent.
2. **Change in Council membership:** *B. Ballou* stated that *B. Macintosh* would be replaced by *J. Jarvis* effective immediately, and offered a word of gratitude and appreciation to Mr. Macintosh for his seven years of service. He then welcomed *J. Jarvis* as the newest Council member and provided a brief overview of Mr. Jarvis’ experience.
3. **Approval of minutes from meeting on March 14, 2017:** *B. Ballou* inquired as to any proposed modifications or objections to adopting the minutes. Hearing none, the minutes were approved by consent.
4. **Public comments regarding other matters not on agenda:** No comments were made.
5. **(9:07) Update on Bay-wide Quahog stock assessment and Providence River water quality:** *C. McManus* provided an update to the on-going Bay quahog science and management work being undertaken by the Division as it relates to the Providence River. He stated that the Division is nearing completion of a stock assessment model, which will be used to get a better understanding of as both the standing stock abundance of quahogs in various portions of Narragansett Bay, as well as to provide guidance on harvest levels in these areas. He stated that the Division is nearing completion of the model, which would then be peer reviewed by an independent panel. He stated that the impetus for the model is to understand how discreet areas of the bay’s quahog stock are performing, with the bay proper, Greenwich Bay and the Providence River being specific areas of study, and then guide with management decisions for harvest should water quality improve. He stated that

the Division of Water Resources continues to monitor and assess the water quality in the Providence River, including how the current stock of quahogs effect water quality, and also the paramaters for determining pollution status and conditional openings. If at such time the area is declared by the Division of Water Resources to be open to shellfish harvest, the Division of Marine Fisheries would then couple this information with the assessment model to be used to determine acceptable harvest rates. When/if this occurs, the Divison will hold a Shellfish Advisory Panel meeting to solicit input and recommendations on harvest, and then back to the Council for a final recommedation to the Director. *D. Monti* inquired as to the extent of the area most likely being considered for the change in water quality status, to which *C. McManus* responded it remains uncertain due to unknowns with water quality, but would most likely be the area of Providence River south of Bullocks Point. There was some concluding questions and discussion regarding potential timeframe for opening, to which *C. McManus* responded that the Division would consult with industry before making any regulatory changes.

6. **June 4 public hearing items:**

- Hearing item 1 - Proposed amendment to “Part 1 - Definitions and General Provisions” regarding modification and/or deletion of terms: *J. McNamee* provided an overview of the proposal. **Motion made by *D. Monti* to recommend adoption of the amendments as proposed; 2nd by *C. Rein*. The motion passed 6-0.**
- Hearing Item #2a - Proposed amendment to “Part 3 – Finfish”, regarding the removal of language “whether caught within the jurisdiction of this State or otherwise”, in several locations throughout the regulation: *J. McNamee* provided an overview of the proposal, and that the language has been determined as unnecessary and potentially inconsistent with language regarding transiting. **Motion made by *A. Dangelo* to recommend adoption of the amendment as proposed; 2nd by *C. Rein*. The motion passed 6-0.**
- Hearing Item #2b - Proposed amendment to “Part 3 – Finfish”, regarding the transfer of quota between the striped bass floating fish trap and general category fisheries: *J. McNamee* provided an overview of the proposal, specifically the proposed removal of the October 15 date that transfers cannot occur prior to, and the process by which the rule is implemented. He stated the second aspect of the proposal is to allow transfers to be made in the other direction from the general category fishery back to the fish traps; such language currently existing in regulation regarding Scup. He stated that the Division has made transfers in the past prior to October 15 believing that such transfer was permissible as long as the fish trap operators were consulted. He stated that such has been determined to not be the case, and transfers should not be occurring prior to October 15 with the current language as written. He stated that this date is problematic in that transfers often may need to occur prior to this date to assure full utilization of the quota, as the trap operators may have ceased operations by this date with quota still remaining that could be harvested by the general category fishery. He stated that public comments were received expressing concerns with the date removal. He re-iterated the need for flexibility with the date of transfer to assure full utilization of the quota, and that the process of consultation with the operators remains unchanged, which is felt to be the more important aspect of the process. *J. Grant* then recused himself as he had made

comments on this hearing item during the public hearing, and discussion resumed with *J. Grant* in the audience. *D. Monti* inquired as to the reason that comments were made not supporting the date removal; to which *J. McNamee* replied that the date provides a level of comfort that transfers would not occur too early in the season, and thus potentially shift quota from the fish traps to the general category fishery while the fish trap operators are still actively fishing. *J. Grant* stated that without a date specified, he is concerned that transfers could occur while fish trap quota remains available. *C. Rein* inquired as to the process of consulting with the fish trap operators, to which *J. McNamee* replied that in years past, each operator was contacted, but in recent years only 2 or 3 “point” persons were contacted/consulted, who were “appointed” to represent the entire group. He stated that each operator is now called directly, but also stated that “consultation” does not mean “consensus”, meaning that a transfer could still occur regardless of agreement by all operators. *C. Rein* inquired as to the process where quota transferred back to the fish trap fishery; to which *J. McNamee* replied that such process is not a formal allocation transfer in the same way that the original transfer to the fish trap fishery occurs, but allows them to continue to operate under the same rules as the general category fishery while the fishery remains open. **Motion made by *D. Monti* to recommend adoption of the amendment as proposed; 2nd by *J. Jarvis*. The motion passed 5-0 (*J. Grant* recused).**

- Hearing Item #2c - Proposed amendment to “Part 3 – Finfish”, to increase the minimum size for recreational Shortfin Mako from 54 to 83 inches: *J. McNamee* provided an overview of the proposal, which is a NOAA compliance matter. **Motion made by *A. Dangelo* to recommend adoption as proposed; 2nd by *D. Monti*. The motion passed 6-0.**
- Hearing Item #2d - Proposed amendment to “Part 3 – Finfish”, regarding a decrease of the fishing year starting possession limit for Aggregated Large Coastal (LCS) & Hammerhead species groups: *J. McNamee* provided an overview of the proposal, namely for consistency with ASMFC/NOAA Fisheries Management Plans. He noted that the possession limit had already been decreased (to 25 sharks/day) via the Division’s authority to modify possession limits, with this regulatory change looking to codify the change in regulation. **Motion made by *D. Monti* to recommend adoption as proposed; 2nd by *C. Rein*. The motion passed 6-0.**
- Hearing Item #2e - Proposed amendment to “Part 3 – Finfish”, regarding rod and reel gear and safe handling requirements for Coastal sharks: *J. McNamee* provided an overview of the proposal. He noted that both provisions of the proposal would be difficult to enforce, but serve more so as an important educational tool. He also noted that this educational component will be re-addressed in a subsequent public hearing. He noted that the proposed measures are not specifically needed for ASMFC compliance, but are consistent with the FMP. *C. Rein* noted that the proposed regulatory language is somewhat ambiguous; to which *J. McNamee* replied that the purpose is meant to be more educational than regulatory, and permit holders would be required to watch a video on safe handling practices being a permit requirement in the future. **Motion made by *A.***

***Dangelo* to recommend adoption as proposed; 2nd by *J. Jarvis*. The motion passed 6-0.**

- Hearing Item #2f - Proposed amendment to “Part 3 – Finfish”, regarding the commercial Cod management, to provide for federally permitted vessels to harvest, possess, or land Cod in state waters in the amount equal to the federal regulations, consistent with other groundfish species (e.g., haddock): *J. McNamee* provided an overview of the proposal, namely that there is inconsistency in the regulations between some of the groundfish species that should be alike, and that the language exists so as to not inhibit federal waters operations from implementing their federal allowance. *J. Jarvis* asked if the Most Restrictive rule still applies, and *B. Ballou* asked if the language allows a federal vessel to harvest in excess of the state limit; to which *J. McNamee* replied in the affirmative, that vessels could fish close to the beach and be allowed to transit through state waters with their federal limit, but that such rarely occurs. **Motion made by *C. Rein* to recommend adoption as proposed; 2nd by *D. Monti*. The motion passed 6-0.**
- Hearing Item #2g - Proposed amendment to “Part 3 – Finfish”, regarding commercial Skate management, to provide for the harvest of Barndoor skate in the Skate wing fishery: *J. McNamee* provided an overview of the proposal, namely that Barndoor skate is no longer a prohibited species due to improved stock status, and harvest can therefore be allowed as a percentage of a total wing skate harvest. He stated that the proposal is consistent with the FMP. *J. Grant* stated that the possession limit should be enforced at the *time of landing* only, as a greater percentage (i.e., >25%) would be on board the vessel during harvesting operations prior to culling. *C. Hoefsmit* stated that as a percentage, it would be difficult/impossible to determine if the possession limit was exceeded until landed and weighed. *J. Grant* maintained concern that the proposal lacked clarity in this regard. **Motion made by *C. Rein* to recommend adoption with the addition of the language “at the time of landing” to address concerns raised by *J. Grant*, and read “Barndoor skate shall not comprise more than 25% of total skate wing by weight per vessel per day at the time of landing”; 2nd by *J. Grant*. The motion passed 6-0.**
- Hearing Item #3 - Proposed adoption of new regulation “Part 12- Regulations for an Expanded Aggregate Program for Commercial Black Sea Bass and Summer Flounder” to expand aggregate opportunities to commercial fishermen as a means to provide greater operational flexibility and reduce discards, and to gather data necessary to make informed decisions about the impact of such a program on harvest rates and quota management: *J. McNamee* provided an overview of the proposed regulations. He noted that this is the second time this matter has been vetted, and that many of the recommendations made during the first attempt at adopting have now been included (e.g., adding a mixed gear group in addition to specific gear types). He stated that analysis has also been done on how landings might be impacted if this program is implemented. He stated that such analysis showed minimal impact to the black sea bass season, but did show impact to the summer flounder season, in that if maximum possible harvest occurred, the model ran showed that the summer flounder fishery could close a soon as 5 weeks earlier. He cautioned however that such scenario is extreme, and that many of the inputs into the

model are unlikely. He stated that the program is meant to understand behavior and changes to behavior that will result from such a program, and then ultimately to determine the viability of such program. *C. Rein* inquired as to the selection criteria process, to which *J. McNamee* stated that such aspect is an important aspect of the program. *J. Grant* stated that selection should be random to obtain the best results regarding behavior. He stated that any changes in behavior that result in significant increases in catch rates will be known early on, and the results of the program are then known, and the program should close to maintain an open season. A trigger to end the program was discussed. *K. Almeida* stated opposition to the program due to fear of the season closing early and the resulting impact to the market. She cautioned uncertainty with the summer flounder amendment and stock assessment currently underway, and the possible lower quota resulting, and that the program should therefore not be implemented until the results of the stock assessment are known. **Motion made by A. Dangelo to postpone adoption of the regulations until a benchmark assessment and amendment is completed for Summer flounder by the MAFMC later this year; 2nd by D. Monti.** *J. Jarvis* inquired if the program should only be implemented for black sea bass at this time. **The motion failed 2-4 (J. Jarvis and A. Dangelo supporting the motion). A motion was then made by J. Grant to recommend adoption, with the following caveats:**

- That the rules take effect January 1, 2019;
- That the program include a random selection of participants with a maximum participation of 15 vessels, with qualifying criteria established for overall selection, and vessels selected at random for each gear type;
- That any projected closure for either species that would occur due to increased activity resulting from the program occur at least five days earlier than current practice for the remainder of the sub-period.

2nd by D. Monti. The motion passed 4 – 1 (A. Dangelo against; T. Barao absent for vote).

7. **Cont'd discussion/ update re: transiting from Block Is. to mainland with federally regulated species:** *B. Ballou* provided an update to this discussion that occurred at last meeting. He referred Council members to the ePacket for up to date preview information. He provided a timeline of August 2018 for the next joint meeting of ASMFC/MAFMC to discuss, followed by public hearings in the fall, and final action slated for the December 2018 joint meeting. The matter will remain on subsequent Council agendas for further update and potential future actions/recommendations.
8. **Shellfish Advisory Panel meeting summary (5/9/2018):** *J. Grant* and *C. McManus* provided an overview of the meeting, and referred Council members to the draft minutes. *B. Ballou* inquired as to any objections to receiving the report and placing on file. Hearing none, the minutes were approved by consent.
9. **Creation of webpage for Council:** *J. McNamee* provided a brief overview of the concept and stated that *P. Duhamel* would follow up with further details. He also discussed The

Division's desire to begin video recording the meetings and providing the recordings publicly.

10. **FYI Items:** No discussion.
11. **Update re: federal legislation proposing to amend the Magnuson-Stevens Act:** *B. Ballou* provided an update regarding the legislation. He stated that the House bill (HR 200) has moved out of committee onto the House floor, but that action has been delayed until July at the earliest, but that there is minimal activity occurring with the Senate. *D. Monti* stated that he and *T. Barao* were in Washington D.C. last week to advocate for conservation and offer input with the legislation. The matter will remain on subsequent Council agendas for further update and potential future actions/recommendations.
12. **IAC membership application:** Motion made by *D. Monti* to appoint applicant Mr. Spencer Bode to the IAC; 2nd by *T. Barao*. The motion passed 5-0 (*C. Rein* had left the meeting).
13. **Other business:** *J. McNamee* stated that a joint meeting with the RI Marine Fisheries Council and representatives for Deepwater Wind is being planned, and that Council members would be contacted for an agreeable meeting date.
14. **Meeting adjournment:** Upon conclusion of deliberating all agenda items, *B. Ballou* inquired as to any objection to adjourning the meeting; hearing none, the meeting was adjourned by consent at approximately 8:15pm.



Rhode Island Marine Fisheries Council

3 Fort Wetherill Road Jamestown, Rhode Island 02835

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

MEETING SUMMARY

August 30, 2018

Chairperson: *B. Ballou (DEM)*

RIMFC members present: *D. Monti, J. Grant, A. Dangelo, T. Barao, C. Rein, J. Jarvis*

Division: *J. McNamee, S. Olszewski, J. Livermore, J. Lake, P. Duhamel*

Public: Approximately 7-8 persons in attendance

MEETING SUMMARY

August 30, 2018

Chairperson: *B. Ballou (DEM)*

RIMFC members present: *D. Monti, J. Grant, A. Dangelo, T. Barao, C. Rein, J. Jarvis*

Division: *J. McNamee, S. Olszewski, C. McManus, J. Livermore, J. Lake, P. Duhamel*

Public: Approximately 7-8 persons in attendance

1. **Approval of the Agenda:** The Chair, B. Ballou, noted that the meeting is meant to be informational only, with no formal recommendations votes or recommendations being sought at this time. He then inquired as to any modifications to the agenda or objections to adopting the agenda as modified; hearing none, the agenda was approved by consent.
2. **Presentation from Deepwater Wind regarding federal offshore wind development:** Eileen Kenny, Senior VP of Development, and John O'Keefe, Manager of Operations and Maintenance and Marine Affairs, were present from Deepwater Wind, with Mr. O'Keefe providing a powerpoint presentation. Following the presentation, the floor was opened to questions and comments from the Council and the public.
 - B. Ballou inquired as to the number of turbines proposed for the Southfork project; Mr. O'Keefe replied that although the exact number has yet to be finalized, it is anticipated that the South Fork project will include 15 turbines, and the Revolution project will include about 50 turbines.
 - A. Dangelo stated that he has been involved in the rod and reel research survey for the Southfork project, and that the area is very good for cod fishing. He expressed concern that his involvement was during the winter, when the fish weren't there. He asked if the survey would be continued throughout the year, given that the fishing is known to be better in the fall and spring. Mr. O'Keefe stated that the survey he participated in is a cod spawning survey; it is a constant-level survey, and not meant

- to be part of the more comprehensive surveys that will be conducted for the 2-year pre-construction phase. Mr. O’Keefe stated that Mr. D’Angelo’s recommendation -- for year-round rod and reel surveys -- is the kind of input needed to help determine the collaborative research needed beginning in 2019.
- D. Monti stated that the RI Party and Charter Boat Assoc. and the RI Saltwater Anglers Assoc. also have concerns about the rod and reel surveys, in that more surveys should be conducted. He asked how these groups could participate in developing the research plan and the types of surveys needed. Mr. O’Keefe stated that he could set up meetings to determine what type of information is needed, and that the process of determining the details of the research plan is beginning now, so there is time to provide such input.
 - J. Jarvis stated that he is aware of concern from fishermen due to the newness of offshore wind in this area, and that there hasn’t been a lot of time for environmental impacts studies. He is concerned about what happens to invertebrates, squid and other forage species from the turbine vibrations, as many fishermen’s livelihood rely on this area. Mr. O’Keefe stated that he is very sensitive to such matters. He offered that the Block Island windfarm has provided a great deal of information about impacts. He said it is difficult to use data from European windfarms due to variability of sites and age of technology used with older windfarms common in Europe. He stated that newer turbines will have more megawatts, use longer blades, and have greater distances between turbines, and that shorter distances between turbines is known to be a problem.
 - J. Grant asked about the life expectancy of the turbines, and their fate operations were to cease in the future. Mr. O’Keefe stated that the foundations are expected to last 50 years, the turbines 20-25 years. He also stated that a bond would be in place to cover the costs of decommissioning.
 - M. Rice asked about the lessons learned from the BI windfarm, namely, if there is any evidence of impacts. Mr. O’Keefe replied that there have been no negative impacts to date, based on 6 years of study.
 - D. Monti asked about cumulative impacts from several windfarms together; and if studies would be developed to look at cumulative impacts as each new project begins operations. He emphasized that lessons should be learned along the way. Mr. O’Keefe stated that several studies are occurring, and that they are being conducted by many other entities besides DWW. Ms. Kenny offered that the RODEO program provided real time observations during construction, looking a variety of things including visual and acoustic impacts, scour testing, and sediment modelling. She stated that there is a great deal of information and data publicly available.
 - D. Fox, Town Dock asked about the release date for the COP for the project. Mr. O’Keefe said that it is expected to be released for 30-day public comment in late September/early October 2018.
 - J. McNamee referenced the regional science collaboration initiative that is aimed at coordinating scientific work on multiple projects throughout the region, and asked whether DWW plans to use the same monitoring designs as used for the BI project, or is DWW open to new ideas? He also asked whether state agencies would have an opportunity to review the scientific designs of any new studies that would be occurring in the wind energy areas, as was provided for the BI project. Mr. O’Keefe

responded that the designs of the scientific studies will build upon those utilized for the BI project, but will be tailored to meet new needs and priorities; the study designs will be vetted both publicly and through existing connections with state agencies as this approach proved successful during the Block Island project.

- A. MacKown, Northwest Atlantic Marine Alliance, asked whether the technology will affect the size of the transmission cables. Mr. O’Keefe responded that the size of the cable will not be affected by the turbine technology.
- B. Ballou sought confirmation that the proposed layout for the South Fork project is a N-S/E-W square grid, with 1-mile spacing. Mr. O’Keefe replied in the affirmative, and that the layout is based on input from fishermen based on ability to navigate and fish between turbines.
- J. Grant asked about fishing prohibitions in the lease area, to which Mr. O’Keefe replied that there are none, and that DWW has no authority to place restrictions.

3. **Presentation from Vineyard Wind regarding federal offshore wind development:**

Christa Banks, Fisheries Liaison, was present from Vineyard Wind, joined by Erich Stephens. Ms. Banks provided a powerpoint presentation. Following the presentation, the floor was opened to questions and comments from the Council and the public.

- B. Ballou asked staff from CRMC to brief the Council on the status of the federal consistency determinations for both projects. J. Boyd from CRMC offered the following with respect to Vineyard Wind: application filed in April 2018, triggering 180-day window for review and determination; additional 2 months granted; thus, deadline is now December 6, 2018; hearing scheduled for November 27. The application was not required, because the project proposal is outside the OSAMP Area; VW submitted voluntarily. With regard to DWW: the COP was just filed; because the project is within the OSAMP Area, a federal consistency determination is required; the application for that is expected to be filed this fall, triggering a 180-day review period, during which a public hearing will be held.
- D. Monti expressed concern that the proposed spacing between the turbines is not even. Ms. Banks acknowledged the desirability of even spacing and a squared grid pattern, at least for some ocean users such as fishermen; but also noted that the area is subject to heavy vessel traffic, e.g., by scallopers, to/from port and their offshore fishing grounds, so accommodating their interest’s conflicts with the interests of others.
- D. Monti also asked about the status of the research plan. Ms. Banks responded that the plan is currently being formulated via SMAST-hosted workshops. The goal is to establish and adopt regionally consistent research protocols. She also noted that BOEM has a number of ongoing research projects, including some that are assessing EMF effects. D. Monti expressed concern that he saw no input from recreational fishermen in developing the research plan or a specific protocol regarding what studies are needed; and that an industry standard regarding types of studies needed is necessary for all windfarm development proposals. E. Stephens from VW noted that the workshops are aimed at starting the planning process and that input from recreational fishermen will be part of the process. he also noted that a video trawl survey is being currently underway.

- J. Grant expressed concern that the E-W pattern, which is essential to enable traditional fishing activities (namely, trawling) to continue in the area, is not yet firmly decided. E. Stephens offered assurance that the matter is being addressed, i.e., that Vineyard Wind is actively pursuing this configuration.
- M. Rice emphasized the importance of assessing cumulative effects through a robust protocol. In response, it was noted that regional studies will facilitate cumulative impact analyses.
- D. Fox expressed concern that the proposed layout will eliminate commercial fishing in the area; that a grid pattern is essential. He stated that federal regulations require full removal of all wind farm components upon decommissioning, but this commitment is not adequately set forth in the Vineyard Wind COP. In response, it was noted that sufficient funds will be provided via bond to cover full removal costs, however, it won't be clear, until decommissioning, whether it would be more environmentally sound to leave some components (e.g., cables) in place; the goal is, and will be, to minimize environmental impacts upon decommissioning. Mr. Fox expressed concern that components left behind at decommissioning will make the area unusable for fishing.
- A. MacKown noted that while there is no industry standard regarding turbine spacing, now is the time to establish such a standard. A grid pattern is essential to safe navigation. She suggested use of AIS transiting data to inform the process. Response was that a grid pattern has been proposed, which is based on transiting data, but that the resulting configuration does not align with other fishing-related needs.
- D. Fox stated that fishing in an E-W direction has been a fishing industry for years, but that the wind farms don't seem to understand this.
- D. Monti offered that the BI wind farm development has been very favorable for recreational fishing interests. Moreover, further renewable energy development will assist in reducing impacts of climate change.

Next Steps: B. Ballou asked if the Council wished to further consider the issues raised during the presentations, and potentially formulate recommendations to the CRMC and/or DEM, at a subsequent meeting. The Council unanimously supported moving forward in that way.

Meeting adjournment: Upon conclusion of deliberating all agenda items, *B. Ballou* inquired as to any objection to adjourning the meeting; hearing none, the meeting was adjourned by consent at approximately 8:15pm.

§ 20-2.1-9. Powers and duties of the director.

(5) The director shall, annually, with the advice of the marine fisheries council, develop and update conservation and management plans for the fishery resources of the state, which conservation and management plans shall be developed and updated prior to, and at the same time as, adoption of any license restrictions on effort or catch. Such plans shall address stock status, performance of fisheries and quotas, and management and licensing programs, and offer any recommendations for new or alternative approaches to management and/or licensing identified by the department or the marine fisheries council. In the development of the 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.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

DIVISION OF MARINE FISHERIES



2019 Sector Management Plan

Draft

TABLE OF CONTENTS

INTRODUCTION.....	4
RESTRICTED FINFISH	5
BLACK SEA BASS.....	5
SCUP	7
STRIPED BASS	9
SUMMER FLOUNDER.....	10
TAUTOG	11
2019 LICENSING RECOMMENDATIONS - RESTRICTED FINFISH	
ENDORSEMENT.....	12
NON-RESTRICTED FINFISH	13
ATLANTIC HERRING	13
BLUEFISH.....	14
COD	15
MENHADEN.....	16
MONKFISH	18
WINTER FLOUNDER	19
SPINY DOGFISH	20
SMOOTH DOGFISH	21
SKATE	21
LONGFIN SQUID.....	22
SHORTFIN SQUID.....	23
2019 LICENSING RECOMMENDATIONS - NON-RESTRICTED FINFISH	
ENDORSEMENT.....	23
SHELLFISH.....	24
BAY QUAHOG	24
2019 LICENSING RECOMMENDATIONS – BAY QUAHOG ENDORSEMENT.....	25
SOFT-SHELL CLAM	25
2019 LICENSING RECOMMENDATIONS – SOFT-SHELL CLAM	
ENDORSEMENT	26
WHELK	26
2019 LICENSING RECOMMENDATIONS – WHELK ENDORSEMENT	27
OYSTER.....	27

OTHER SHELLFISH	28
2019 LICENSING RECOMMENDATIONS – OTHER SHELLFISH ENDORSEMENT	28
CRUSTACEANS	29
LOBSTER	29
2019 LICENSING RECOMMENDATIONS – LOBSTER ENDORSEMENT	30
HORSESHOE CRAB	31
JONAH CRAB	32
ATLANTIC ROCK CRAB.....	33
OTHER CRUSTACEANS.....	33
2019 LICENSING RECOMMENDATIONS – CRUSTACEANS OTHER ENDORSEMENT	34
LITERATURE CITED	34
TABLES	37
PHOTO CREDITS.....	44
LIST OF ACRONYMS.....	44

Draft

INTRODUCTION

During the 2002 legislative session, the Rhode Island General Assembly adopted the Commercial Fisheries Management Act, establishing a new commercial fishing license system and ending the moratorium on the issuance of new commercial fishing licenses that had been in place since 1995. One purpose of the act was to allow for new entrants into commercial fisheries, while still restricting access to those fisheries where warranted necessary to rebuild depleted marine fishery resources.

To meet the purposes of the act, regulations subsequently developed included fishery “endorsements” to include a given marine species, or groups of species, to restrict access to, or to otherwise manage commercial harvest. As implied by name, access to a species or fishery that is included in the *restricted* endorsement category is *limited*; while species or fisheries included in a *non-restricted* endorsement category is currently *open*. Two commercial license types (i.e., Commercial Fishing License, Principal Effort License) requires the license holder to hold at least one fishery endorsement. The following fishery endorsements are currently included in regulation and addressed in this plan:

- *Restricted Finfish*
- *Non-Restricted Finfish*
- *Bay quahog*
- *Soft-shell clam*
- *Whelk*
- *Shellfish Other*
- *Lobster*
- *Non-lobster Crustacean*

Finfish species for which access is limited in the marine waters of Rhode Island include striped bass, scup (during the summer sub-period only), summer flounder, black sea bass, and tautog, and are included in the *Restricted Finfish Endorsement*. All other regulated species of finfish (e.g., winter flounder, monkfish) are included in the *Non-Restricted Finfish Endorsement*, which is currently open and available to any resident or non-resident license holder.

Shellfish species for which access is limited include bay quahog, soft-shell clam, and whelk, and are included in the *Bay Quahog, Soft-Shell Clam, and Whelk endorsements* respectively. All other regulated species of shellfish (e.g., blue mussel, oyster) are included in the *Shellfish Other Endorsement*, which is currently open and available to any Rhode Island resident license holder.

Species of crustaceans for which access is limited include lobster, and is included in the *Lobster Endorsement*. All other regulated species of crustaceans (e.g., Blue crab, Jonah crab) are included in the *Non-Lobster Crustacean Endorsement* which is currently open and available to any Rhode Island resident license holder.

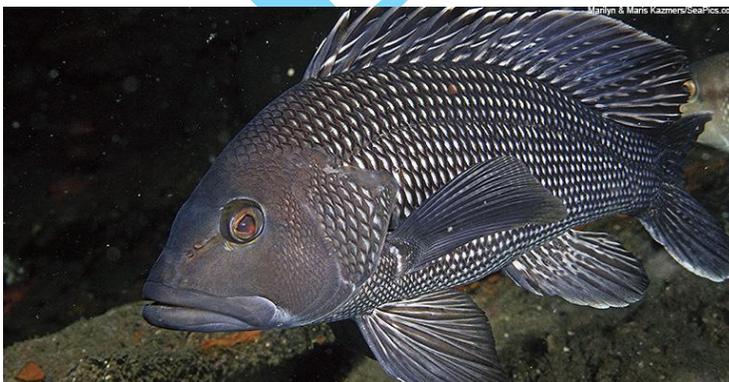
The availability of any of the endorsements described above to which access is limited (i.e., Restricted Finfish, Bay quahog, Soft-shell clam, Whelk, Lobster) is determined annually by the number of endorsements that are not renewed. A ratio is developed between the number of licenses not renewed and the number that will be allowed back in to replace the retired licenses. These *exit:entry ratios* are a principal mechanism in the Rhode Island commercial licensing system used to manage harvest through license access restrictions. Exit:entry ratios are reviewed annually by the Industry Advisory Committee (IAC) and Rhode Island Marine Fisheries Council (RIMFC), and presented for public comment at a public hearing in accordance with the requirements of the Administrative Procedures Act (RIGL Chapter 42-35). Determining the level of fishing effort, the impacts to the resource that a particular license type collectively represents, and thus determining the number of licenses desired in a given fishery as a means to limit such effort, is a primary goal of the licensing program.

Pursuant to RI Gen. Law 20-2.1-9(5), this management plan is prepared to address the state of the fishery resources of the state, with focus on those fishery resources with the greatest value to the state, and must be updated annually prior to any proposed changes to any commercial license restrictions on effort and catch. Any amendments made to the commercial licensing regulations must be consistent with this management plan.

The primary goal for quota-managed fisheries is to maintain open seasons with economically viable possession limits while minimizing regulatory discards, avoiding harvest overages, maximizing harvest opportunities, and ensuring equitable access to the fishery. However, due to the multi-species nature of the commercial fishing industry, increased effort can result in shorter seasons and higher discards for many species. Information contained in this plan seeks to aid in understanding if management goals are being realized under existing management and to provide guidance as to the amount of potential new effort that could be sustained in RI's most important fisheries.

RESTRICTED FINFISH

BLACK SEA BASS



Stock status: The 2016 benchmark stock assessment found black sea bass not overfished nor experiencing overfishing (<http://www.asmfcr.org/species/black-sea-bass>). With improved recruitment and declining fishing mortality rates since 2007, spawning stock biomass (SSB) has steadily increased. SSB in 2015 was

estimated at 48.9 million pounds, 2.3 times the SSB target of 21.3 million pounds, and

fishing mortality (F) was estimated at 0.27, below the F target of 0.36. Recruitment at age 1 averaged 24.3 million fish from 1989 to 2015, with peaks in 2000 (1999 cohort) at 37.3 million and at 68.9 million in 2012 (2011 cohort). The distribution of black sea bass continues to expand northward into the Gulf of Maine. Quotas since 2015 have been set based on projections from this benchmark assessment.

Management program: Black sea bass is managed jointly by the ASMFC and the MAFMC through the Summer Flounder, Scup and Black Sea Bass FMP (<http://www.asmfc.org/species/black-sea-bass>). The FMP establishes coast-wide quotas for each state annually; with Rhode Island’s share of the quota is currently at 11%. Minimum size, seasons, and possession limits are then established by each state annually, with review by the ASMFC/MAFMC to assure compliance with the FMP. The specifications for 2018 are presented in the table below. These recommendations are consistent with the advice of the RIMFC. A Multi-Purpose License or *Restricted Finfish Endorsement* is required to harvest black sea bass in RI waters.

2018 RI commercial regulations:

Min. Size	Season	2018 Allocation (%)	Possession Limit (lbs/vsl)
11"	Jan. 1 – April 30	25%	500/week
	May 1 – June 30	25%	50/day
	July 1 – July 31	19.5%	50/day
	Aug. 1 – Sept. 14	CLOSED	
	Sept. 15 – Oct. 31	19.5%	50/day
	Nov. 1 – Dec. 31	11%	50/day

Currently, only the first sub-period January 1 – April 30 is managed by aggregate, or weekly, possession limits; all other sub-periods are managed by a daily possession limit. As a means to reduce regulatory discards and provide greater flexibility to fishing practices, the Division is currently working to determine if aggregate possession limits are feasible for other sub-periods.

Fishery performance: In 2017, 543 commercial fishers (Table 2) landed 458,131 pounds of black sea bass in RI valued at \$1,603,688 (Table 1). In 2018, the possession limit in the first sub-period was increased twice, on April 1 from 500 to 750 lbs/week, and then on April 15 to 1,000 lbs/week, resulting in an under harvest which was then rolled into the next sub-period. The second sub-period closed on June 17, thirteen days before the end of the sub-period. The sub-period beginning on July 1 closed on July 19, before the end of the sub period (Table 3).

RIDEM Division of Marine Fisheries recommendations for 2019: The coastwide quota for 2019 has been reviewed by the MAFMC’s Scientific and Statistical Committee (SSC) and is anticipated to be 2.95 million lbs, down from 3.52 million pounds in 2018. This is still pending final approval by the MAFMC and may change. The current management program is performing reasonably well given the low quota and high availability of this species in our area, with closures minimized to the greatest extent practicable given the

current quota and level of effort. Based on an assumed quota reduction and performance to date in 2018, the Division recommends maintaining the level of effort at or below current levels; and maintain as a restricted category species. An important note for 2018 is that there has been a significant recalibration in an important data stream (recreational catch data), and an update to the assessment is planned for black sea bass in early 2019. This new assessment could have major repercussions to the commercial quota, therefore there is high uncertainty in this recommendation for 2019.

SCUP



Stock status: The 2015 benchmark stock assessment found scup not overfished nor experiencing overfishing (<http://www.asmfc.org/species/scup>). With improved recruitment and declining fishing mortality rates since 2000, SSB has steadily increased. SSB in 2015 was estimated at 403 million pounds, higher than the SSB target of 192 million pounds, and F was estimated at 0.127,

below the F target of 0.22. Recruitment at age 0 averaged 109 million fish from 1984 to 2014, with peaks in 1999 at 222 million, 2006 at 222 million, and at 218 million in 2007. Since 2000, recruitment has been average with the 2014 cohort estimated at 112 million fish. Quotas since 2015 have been set based on projections from this benchmark assessment.

Management program: Scup is managed jointly by the ASMFC and MAFMC through the Summer Flounder, Scup and Black Sea Bass FMP (<http://www.asmfc.org/species/scup>). The FMP establishes coast-wide quotas for each state annually, with RI's share currently at 56.19%.

During the two federal sub-periods, the quota is available coast-wide and is managed through daily possession limits. Scup is classified as a non-restricted species in RI during these two federal sub-periods. In the summer however, scup is classified as a restricted species for the purpose of managing catch rates when landings by state waters fishermen increases. RI further manages the Summer sub-period by allocating the state quota into a general category (i.e., gear types other than floating fish traps) and floating fish trap sector, at 40% and 60% respectively, with allocations to these two sectors based on historical landings. Another key aspect of the management program includes DEM authority to transfer quota between the floating fish trap and general category sectors, which provides for the full harvest of the RI quota each year. A Multi-Purpose License or *Restricted Finfish Endorsement* is required to harvest scup in RI waters.

2018 RI commercial General Category regulations:

Min. size	Season	2018 Allocation	Starting Poss. limit
9"	Winter I (federal): (1/1 – 4/30)	Coastwide	50,000 lbs/vsl/day
	Summer: (5/1 – 9/30)	40% of sub-period quota	10,000 lbs/vsl/wk
	Winter II (federal): (10/1 – 12/31)	Coastwide	2,000/18,000 lbs/vsl/day*

* Winter II possession limit begins at 2,000 lbs/vsl/day; change to 18,000/day if Winter I roll over available

2018 RI commercial Floating Fish Trap regulations:

Min. size	Season	2018 Allocation	Starting Poss. limit
9"	Winter I (federal): (1/1 – 4/30)	Coastwide	50,000 lbs/vsl/day
	Summer: (5/1 – 9/30)	60% of sub-period quota	Unlimited
	Winter II (federal): (10/1 – 12/31)	Coastwide	2,000/18,000 lbs/vsl/day*

* Winter II possession limit begins at 2,000 lbs/vsl/day; change to 18,000/day if Winter I roll over available

Fishery performance: In 2017, 437 commercial fishers (Table 2) landed 5,968,081 pounds of scup in RI valued at \$3,040,684 (Table 1). To date, no early closures or possession limit changes have been needed (Table 3).

RIDEM Division of Marine Fisheries recommendations for 2019: The coastwide quota for 2019 has been reviewed by the MAFMC's Scientific and Statistical Committee (SSC) and is anticipated to be 23.98 million pounds, the same as in 2018. Given the current quota, good stock status, and performance to date in 2018, the Division recommends allowing for small increases in effort during the summer sub-period. Additionally, the Division recommends maintaining scup in the restricted category in the summer sub-period and in the non-restricted category only during the federal sub-periods at this time. An important note for 2018 is that there has been a significant recalibration in an important data stream (recreational catch data), and an update to the assessment is planned for scup in early 2019. This new assessment could have major repercussions to the commercial quota, therefore there is high uncertainty in this recommendation for 2019.

STRIPED BASS



Stock status: A stock assessment was completed in 2016 and indicates that the stock is neither overfished nor experiencing overfishing relative to the

biological reference points (<http://www.asmfc.org/species/atlantic-stripped-bass>).

However, female SSB has been in decline since 2004, and is estimated at 129 million pounds in 2015. This is just above the SSB threshold of 127 million pounds, and below the SSB target of 159 million pounds. Total F is estimated at 0.16 in 2015, below both the F threshold and F target levels (0.22 and 0.18, respectively) (ASMFC 2016).

Management program: Striped bass is managed by ASMFC through the Interstate FMP for striped bass (<http://www.asmfc.org/species/atlantic-stripped-bass>), which establishes minimum size limits and state quotas for the commercial fishery. States can implement alternative management measures that are deemed to be equivalent to the preferred measures in the FMP through a Conservation Equivalency process. In RI, the commercial quota is divided between a floating fish trap and general category sector, respective of historical landings by these sectors. The general category quota is then divided between two sub-periods, designed to allocate harvest between inshore bay and offshore fishing. Days closed to fishing include Friday and Saturday as a means to extend the season as long as possible. A Multi-Purpose License or *Restricted Finfish Endorsement* is required to harvest Striped bass in RI waters.

2018 RI commercial General Category regulations:

Min. Size	Season	2018 Allocation		Possession Limit
34"	May 20 – Aug. 4	61%	70%	5 fish/day
	Aug. 5 – Dec. 31		30%	5 fish/day

2018 RI commercial Floating Fish Trap regulations:

Min. Size	Season	2018 Allocation	Possession Limit
26"	April 1 – Dec. 31	39%	Unlimited

Another key aspect of the management program includes DEM authority to transfer quota between the floating fish trap and general category sectors, necessary to assure the full harvest of the RI striped bass quota each year.

Fishery performance: In 2017, 268 commercial fishers (Table 2) landed 175,312 pounds of striped bass in RI valued at \$759,653 (Table 1). In 2018, the first sub-period of the general category sector was closed on 7/3/2018, or 33 days before the end of the sub-period, with an overage of 6,034 lbs (Table 3). The second sub-period has 27,404 lbs available for harvest. As of the writing of this report, 18,160 lbs remain in the floating fish trap quota.

RIDEM Division of Marine Fisheries recommendations for 2019: The RI commercial striped bass 2019 quota for the general category sector is 111,459 lbs, unchanged from 2018. The floating fish trap quota is 70,113 lbs in 2019, also unchanged from 2018, minus any overages that may occur in 2018. With this quota and current level of effort, not much can be done to extend the season with current possession limits. Current management is felt to be working reasonably well to keep the season open as long as possible, with accessibility for both bay and offshore fishers. The Division therefore recommends maintaining effort at or below current levels, and maintain as a restricted category species.

SUMMER FLOUNDER



Stock status: The 2016 stock assessment update found summer flounder not overfished, but the population is experiencing overfishing (<http://www.asmfc.org/species/summer-flounder>). With improved recruitment and declining fishing mortality rates since the late 1980s, SSB steadily increased, peaking in the early 2000s. SSB in 2014 was estimated at 89 million pounds, higher than the SSB threshold of 69 million pounds, and F was estimated at 0.359,

higher than the F threshold of 0.309. Recruitment at age 0 averaged 41 million fish from 1982 to 2014, with peaks in 1983 at 75 million and 1985 at 62 million. Since 2009, recruitment has been below average with the 2014 cohort estimated at 41 million fish. Quotas since 2015 have been set based on projections from this update assessment.

Management program: Summer flounder is managed jointly by the ASMFC and MAFMC via the Summer Flounder, Scup and Black Sea Bass FMP (<http://www.asmfc.org/species/summer-flounder>). In RI, seasons are divided into three seasonal sub-periods. Due to the low quota, the fishery is closed for three days each week in the Summer sub-period, and aggregate possession limits are currently only available to permit holders during the first sub-period. A Multi-Purpose License or *Restricted Finfish Endorsement* is required by license holders to harvest summer flounder in RI waters.

2018 RI commercial regulations:

Min. size	Season	2018 Allocation	Starting Poss. Limit (lbs/vsl/day)	Days Closed
14"	1/1 – 4/30 (Winter)	54%	100/1,500 Aggregate (week)	Open 7 days
	5/1 – 9/15 (Summer)	35%	50	Fri./Sat./Sun.
	9/16 – 12/31 (Fall)	11%	100	Open 7 days

Fishery performance: In 2017, 502 commercial fishers (Table 2) landed 897,311 pounds of summer flounder in RI valued at \$4,304,769 (Table 1). In 2018, no early closures or daily possession limit changes were implemented during the first sub-period. The aggregate possession limit was increased once on April 15 to 1,750 lbs/day, and then closed a day early on April 29. There have been no fishery closures to date in 2018 (Table 2).

RIDEM Division of Marine Fisheries recommendations for 2019: The coastwide quota for 2019 is estimated to be 7.72 million lbs, up from 6.63 million pounds in 2018. Due to the continued low quota and current level of effort, the Division recommends maintaining effort at or below current levels and maintain as a restricted category species. An important note for 2018 is that there has been a significant recalibration in an important data stream (recreational catch data), and a benchmark assessment is currently underway for summer flounder. This new assessment could have major repercussions to the commercial quota, therefore there is high uncertainty in this recommendation for 2019.

TAUTOG



Stock status: The [2016 stock assessment update](#), analyzes the stock in 4 regions (Massachusetts/Rhode Island - MARI, Long Island Sound, New Jersey/New York Bight, and Delaware/Maryland/Virginia); the updated assessment finds that the MARI region is not overfished and overfishing is not

occurring (<http://www.asmfc.org/species/tautog>). The SSB has been fairly steady over the past several years, and is estimated at 2,196mt, above the threshold of 2,004mt. F is estimated at 0.23, below the target of 0.28.

Management program: Tautog is managed regionally by the ASMFC through the tautog FMP (<http://www.asmfc.org/species/tautog>). Although not specifically required by the FMP, RI has an established a commercial quota, which in part achieves the fishing mortality targets required by the FMP. The commercial quota has maintained stable for

the past several years at 51,348 pounds divided into three seasonal sub-periods. Traditionally, the quota was split evenly between the 3 seasons, however, the spring season has been difficult to manage with the most severe early closures and high discard mortality. Therefore, in 2017 the allocation percentages were adjusted and were maintained in 2018. A Multi-Purpose License or *Restricted Finfish Endorsement* is required by license holders to harvest Tautog in RI waters.

2018 RI commercial regulations:

Min. Size	Season	2018 Allocation	Possession Limit
16"	April 1 – May 31	40%	10 fish/day
	June 1 - July 31	Closed	
	Aug. 1 – Sept. 15	20%	10 fish/day
	Sept. 16 – Dec. 31	40%	10 fish/day

Fishery performance: In 2017, 250 commercial fishers (Table 2) landed 52,844 pounds of tautog in RI valued at \$194,380 (Table 1). The fishery experienced early seasonal closures in each sub-period in 2017, and closed 4 days early on May 27 in the spring season in 2018 (Table 3).

RIDEM Division of Marine Fisheries recommendations for 2019: The quota for 2019 is anticipated to be 51,348 pounds, minus any overages in 2018, consistent with 2018. Due to poor stock status and difficulty with maintaining open seasons, the Division recommends maintaining effort at or below current levels, and maintain as a restricted category species.

LICENSING RECOMMENDATIONS FOR THE RESTRICTED FINFISH ENDORSEMENT FOR 2019

RIDEM Division of Marine Fisheries: Referring to Table 4, the number of licenses eligible to harvest restricted finfish has remained relatively stable in the last three years, which indicates that this ratio is maintaining a consistent number of licenses and participants in the fishery. More importantly however is that the new licenses that replaced the licenses not renewed has not led to an appreciable increase in effort, evidenced by the number of trips landed in RI with restricted species. In 2016, 21,130 trips were landed by 657 participants which was slightly higher than 20,219 trips landed by 661 participants in 2017 (Table 3). **The Division therefore recommends that the 1:1 exit:entry ratio be maintained, and that the species currently included in the Restricted Finfish category also be maintained.**

In 2018, 15 licenses eligible to harvest restricted finfish were not renewed (9 MPURP, 6 PEL w/RFIN), which would **result in 15 new PEL restricted finfish endorsements being issued in 2019.**

RI Marine Fisheries Council: **Recommendation to be requested at the October 1, 2018 Council meeting.**

NON-RESTRICTED FINFISH

ATLANTIC HERRING



Stock status: The latest stock assessment update, conducted by the Northeast Regional Stock Assessment Workshop in 2015, indicates Atlantic herring are not overfished and overfishing is not occurring (<http://www.asmfc.org/species/atlantic-herring>). SSB in 2014 was estimated at 623,000 mt, well above the SSB threshold and target of 155,573 mt (342

million pounds) and 311,145 mt (685 million pounds), respectively. Current F is estimated at 0.16, below the fishing mortality threshold of 0.24 (cite).

Management program: Atlantic herring is managed jointly by the ASMFC, NOAA Fisheries and NEFMC through Interstate FMP for Atlantic herring (<http://www.asmfc.org/species/atlantic-herring>). Annual specifications are calculated and regional ACLs (quotas) are broken out into fishing areas. Area 2 encompasses Southern New England (SNE) waters including RI state waters. The 2018 Atlantic herring quota for area 2 (Southern New England) was 31,137 metric tons. River herring bycatch is a concern within the Atlantic herring fishery and also has regional ACLs (catch caps) that are set by fishing area and gear type. When the catch cap for river herring is reached in any given area, the Atlantic herring fishery is closed until the next fishing year. The 2018 Area 2 River Herring catch cap was set at 251.9 metric tons. A Multi-Purpose License or *Non-Restricted Finfish Endorsement* is required to harvest Atlantic herring in RI waters.

In RI, any vessel is eligible to participate in the state waters Atlantic herring fishery, however a permit is required to possess greater than 2,000 pounds. This permit has been required since 2013 as a means to address issues arising from prohibited species interactions, mainly river herring, and gear conflicts. Fisheries violations may result in a vessel's state water Atlantic herring permit being revoked.

Fishery performance: In 2017, 30 commercial fishers landed 4,535,139 pounds of Atlantic herring in RI valued at \$938,667 (Table 1). A state quota has not been established.

RIDEM Division of Marine Fisheries recommendations for 2019: It is recommended that the current permitting program be maintained, and continue to match federal landing limits in state waters. Maintain as a non-restricted category species.

BLUEFISH



Stock status: The most recent ASMFC Benchmark Stock Assessment was conducted by the Northeast Regional Stock Assessment Workshop in August 2015 (<http://www.asmfc.org/species/bluefish>). The assessment indicates lower biomass estimates and reference points relative to the previous assessment,

though the species is not currently experiencing overfishing, nor is it overfished. SSB in 2014 was estimated to be 191 million pounds, which is less than the SSB target (223 million pounds) but greater than the SSB threshold (112 million pounds). F in 2014 was estimated to be 0.157, below the F threshold ($F_{msy} PROXY = F_{35\%SPR} = 0.19$).

Management program: Bluefish is managed jointly by the ASMFC and MAFMC through the FMP for bluefish (<http://www.asmfc.org/species/bluefish>), which sets annual commercial coast-wide quotas for each state; Rhode Island receives 6.8%. The weekly aggregate possession limits allow for fishermen to maximize harvest when they encounter bluefish in large numbers, while allowing for up-to-date quota tracking. In 2018, the first sub-period possession limit was changed from a 500/week aggregate to a 1000/bi-week aggregate. A Multi-Purpose License or *Non-Restricted Finfish Endorsement* is required to harvest Bluefish in RI waters.

2018 RI commercial regulations:

Min. Size	Season	Possession Limit (lbs/vsl)
12"	Jan. 1 – April 30	1000/bi-week
	May 1 – Nov. 11	6000/week
	Nov. 12 – Dec. 31	500/week

Fishery performance: In 2017, 339 commercial fishers (Table 2) landed 646,979 pounds of bluefish in RI valued at \$462,880 (Table 1). In 2018, the first sub-period remained open for its entirety with no possession limit decreases imposed, with a harvest underage of 13,581 pounds, which carried over into the second sub-period. The possession limit in the second sub-period was increased to 10,000/week on May 27 and then to 15,000/week on July 15 (Table 2), and has ~470,000 pounds remaining as of the writing of this report (Table 3).

RIDEM Division of Marine Fisheries recommendations for 2019: The 2019 quota has not yet been determined as of the writing of this report, but based on the status of the fishery, it is anticipated that the quota will be similar to 2018. This quota is subject to change depending on the performance of the recreational fishery in 2018 and any potential transfers that may occur from the recreational sector to the commercial sector.

Given a similar quota and current level of effort, the Division recommends maintaining effort in 2018 at or below current levels, and maintain as a non-restricted category species.

However, RI has required frequent commercial transfers from Atlantic states in recent years. RI has received transfers ranging from 100,000 lbs. to 180,000 lbs over the last 4 years (2014-2017), averaging an annual +55,949-lb transfer. The Division will continue to monitor the situation and may consider adding bluefish to the restricted category in the future if this trend continues.

COD



Stock status:
RI State waters are considered part of the George’s Bank (GB) cod stock. An updated operational assessment for the GB Atlantic Cod stock was completed in 2017 ([Chris Legault, NOAA NEFSC 2017](#)). This was a data-limited assessment

using the PlanBsmooth approach that updated commercial fishery catch data through 2016 and updated research survey indices of abundance. Based on this assessment, stock status cannot be quantitatively determined due to a lack of biological reference points, however it is qualitatively assessed as overfished. Overfishing status is unknown. Projections cannot be computed using the PlanBsmooth assessment approach, but instead this approach applies an estimate of recent change in the smoothed survey biomass (rate of change is estimated to be 1.517 in 2017) to the average of the recent three years of catch to produce catch advice (thus influenced by uncertainty in survey estimates). The smoothed survey biomass is increasing, but without a biomass reference point it is not known if rebuilding is on schedule.

Management program: Atlantic cod is managed on a federal fishing year (May 1 - April 30) under the NEFMC Northeast Multispecies FMP (<https://www.nefmc.org/management-plans/northeast-multispecies>). The 2018 Annual Catch Limit for the GB stock is 3,348,822 pounds, up from the 2017 Annual Catch Limit of 2,638,933 pounds. In an effort to complement federal FMPs, RI has adopted a minimum size limit, daily possession limit, and state quota set at 1% of the GB Annual Catch Limit (equal to 33,488 pounds for 2018). A Multi-Purpose License or *Non-Restricted Finfish Endorsement* is required to harvest Atlantic cod in RI waters.

2018 RI commercial regulations:

Min. Size	Season	Possession Limit (lbs/vsl/day)
22"	May 1 – April 30	1,000

Fishery performance: In 2017, 100 commercial fishers (Table 2) landed 96,427 pounds of atlantic cod in RI valued at \$278,573 (Table 1). These landings include fish caught in state waters, as well as fish caught in federal waters. State-water landings for RI during FY2017 totaled approximately 9,770 pounds, or 37% of the RI state-water quota (26,384 lbs). The state quota for cod has not been harvested since its inception in 2009.

Cod abundance in state waters is ephemeral and potential landings for a given year cannot be accurately projected. This fishery still appears to be resource limited, and given the increase in Annual Catch Limit for 2018, it is unlikely that the RI state quota will be fully harvested.

RIDEM Division of Marine Fisheries recommendations for 2019: The 2019 Annual Catch Limit for GB Atlantic Cod is 2,182 mt (4,810,487 pounds). RI's 2019 state quota is set at 1% of the ACL, equal to 48,105 lbs. It is recommended that effort be maintained at current levels and this species be maintained in the non-restricted category.

MENHADEN



Stock status: A Stock Assessment Update was completed in 2017

(<http://www.asmfc.org/species/atlantic-menhaden>). Based on this assessment, atlantic menhaden are neither overfished nor experiencing overfishing. The biological reference points used to evaluate the stock status used historical performance of the population during 1960- 2012. Since the 1960s, fishing mortality rates have remained below the overfishing threshold (1.85) and have hovered around the overfishing target (0.8) through the

1990s. F dropped below the target in 2003, and was estimated to be 0.51 in 2016 (the latest year in the assessment update). Throughout the history of the fishery, F has generally been decreasing. The biological reference point used to determine the fecundity target is defined as the expected mature egg production when the population is being fished at the threshold F rate. Population fecundity (a measure of reproductive capacity similar to the SSB metric used for other finfish stocks) has been well above the threshold (57,295 billion eggs) and at or near the target (99,467 billion eggs) in recent years. In 2016, fecundity is estimated to be 83,486 billion eggs, well above the threshold but below the target. Recruitment has been generally below average since the mid-1990s, with 2005, 2010, and 2016 being good recruitment events during this period (16.032, 18.654, and 13.363 billion fish respectively).

Management program: Atlantic menhaden are managed by the ASMFC under the Interstate FMP for Atlantic Menhaden (<http://www.asmfc.org/species/atlantic-menhaden>) which maintains the management program's current single-species biological reference points until the review and adoption of menhaden-specific

ecological reference points as part of the 2019 benchmark stock assessment process. It also addresses multiple commercial management measures, including allocation, quota transfers, quota rollovers, incidental catch, and the Episodic Events Set Aside Program. The ASMFC's Atlantic Menhaden Management Board sets an annual Total Allowable Catch (TAC) for menhaden which is then allocated to the Atlantic coast jurisdictions based on landings history. A TAC set-aside of 1% is used each year by states in the New England region for episodic events, or periods of time when large amounts of biomass are present. RI participates in the Episodic Events Set-Aside Program annually, which allows RI state waters to re-open to the landing of menhaden until the set-aside quota is harvested or the program ends. The RI menhaden allocation is 0.52% of the overall TAC. Upon harvest of the RI quota, the landing of menhaden in RI is prohibited, except for non-directed fisheries which have a bycatch allowance of 6,000 pounds/vessel/day, or 12,000 pounds/vessel/day if two licensed fishermen are on board the vessel. A Multi-Purpose License or *Non-Restricted Finfish Endorsement* is required to harvest Menhaden in RI waters.

In Rhode Island, Narragansett Bay in its entirety is designated a Menhaden Management Area through RI statute, which provides the Division with the ability to manage menhaden through additional management measures including:

- Areas permanently closed to purse seining (i.e., Providence River, Greenwich Bay);
- A daily possession limit of 120,000 pounds/vessel;
- Net size certification;
- Vessel capacity restrictions;
- Call-in requirements;
- A threshold amount of 2,000,000 lbs of fish that must be present in Narragansett Bay before opening the commercial bait fishery;
- An overall cap on the amount of fish that can be harvested (i.e., 50% of the standing stock in the Bay);
- A threshold amount of fish that must be present for the commercial bait fishery to remain open (i.e., 1.5 million pounds).
- A Fall opening of the fishery in the southern portion of the management area with a daily possession limit of 25,000 lbs/vessel

Biomass levels in the Management Area are monitored on a weekly or bi-weekly basis through a contractor spotter pilot who provides school counts and an estimate of pounds of fish. A depletion model for open systems (Gibson 2007) uses these spotter pilot estimates, commercial bait landings, and biological information to provide an overall estimate of biomass present, which is then used to determine if the fishery can remain open.

Fishery performance: In 2017, 11 commercial fishers (Table 2) landed 1,752,756 pounds of atlantic menhaden in RI valued at \$136,869 (Table 1). As of the writing of this report, 132,788 pounds have been landed, with 2,233,830 pounds remaining in the quota.

RIDEM Division of Marine Fisheries recommendations for 2019: RI's initial commercial menhaden quota for 2019 is 2,476,232 lbs, unchanged from 2018, minus any overages that occur; therefore, the Division recommends maintaining effort at or below current levels in 2019, and maintaining as a non-restricted species.

MONKFISH



Stock status: The NMFS conducted an operational assessment in 2016 (Richards, 2016), but due to uncertainty of growth rates the SCALE model could not be updated in this assessment. Since the SCALE model could not be updated for the 2016 assessment, updated BRPs and stock status could not be updated. Thus, the most recent BRPs are from the 2013 operational assessment, which showed that F was 0.11, the updated F threshold was 0.37, and the corrected total biomass (B) estimate of 88,806 mt was above both the B target of 71,667 mt (B msy proxy)

and the 2013 corrected B threshold of 23,204mt ($1/2 * B$ target). The 2013 BRPs indicated monkfish are not overfished and overfishing is not occurring in the Southern Fishery Management Area; however, high levels of uncertainty in the BRPs due to gaps in the input data and a persistent retrospective pattern that underestimates F and overestimates B in each area.

Management program: Monkfish is jointly managed by the NEFMC and MAFMC on a federal fishing year (May 1 - April 30), with the NEFMC having the administrative lead (<https://www.nefmc.org/management-plans/monkfish>). Monkfish is managed as two stocks, with RI waters considered part of the Southern Management Area (SMA) stock. The SMA monkfish stock is regulated by the NEFMC through minimum size limits, gear restrictions, and days at sea (DAS) restrictions. A Multi-Purpose License or *Non-Restricted Finfish Endorsement* is required to harvest monkfish in RI waters.

In an effort to complement the FMP, RI has adopted a minimum size, daily possession limit, and state quota on monkfish harvested in state waters. The RI state-water quota is set at 3% of the SMA Total Allowable Landings (TAL) with a possession limit reduction to 50 lbs/vessel/day tail weight when state-water landings reach 2% of the SMA TAL

2018 RI commercial regulations:

Min. Size	Season	Possession Limit (lbs/vsl/day)
17"	May 1 – April 30	700 tail/3,027 whole

Fishery performance: In 2017, 174 commercial fishers (Table 2) landed 1,707,366 pounds of monkfish in RI valued at \$2,060,988 (Table 1). State-water landings totaled 118,589 pounds.

RIDEM Division of Marine Fisheries recommendations for 2019: Allowing for a modest increase in effort would appear to still provide for the directed fishery to remain open for the entire fishing year. Maintain in the non-restricted species category.

WINTER FLOUNDER



Stock status: The 2017 SNE/MA operational stock assessment indicates the stock is overfished, but overfishing is not occurring. SSB in 2016 was estimated to be 4,360mt, which is 18% of the biomass target and 36% of the biomass threshold. F in 2016 was estimated to be 0.21 which is 62% if the overfished threshold (<http://www.asmfc.org/species/winter-flounder>).

Management program: Winter flounder are jointly managed on a federal fishing year (May 1 - April 30) by the ASMFC and NEFMC through the Northeast Multispecies (Groundfish) FMP (<http://www.asmfc.org/species/winter-flounder>). Under Framework 50, harvest of winter flounder is allowed in the federal SNE/MA stock management area, and federally permitted vessels participating in a sector are allowed to fish with no limit until they reach their sector allowable catch limit. Federally permitted vessels in the “common pool” are currently restricted to a possession limit of 2,000 lb/vsl/day, or 4,000 lbs/vsl/trip limit, which is adjustable by the NMFS regional administrator. The SNE/MA management area remains open to common pool vessels until the allowable catch limit is reached.

At the state level, ASMFC manages the inshore winter flounder stocks through Addendum I to Amendment 1 to the interstate FMP, which includes minimum size, daily possession limits, mesh size restrictions, and areas closed to harvest. In RI, regulations include areas within state waters closed to harvest, including Point Judith Pond, the Harbor of Refuge, Potters Pond, and Narragansett Bay north of the Colregs line, which aim to protect a recovery of the population in these areas due to the SNE closure (Gibson 2010). In order to maintain a stream of commercial landings for biological data collection used in the stock assessment, RI also adopted a 50 lb daily possession limit. A Multi-Purpose License or *Non-Restricted Finfish Endorsement* is required to harvest winter flounder in RI waters.

2018 RI commercial regulations:

Min. Size	Season	Possession Limit (lbs/vsl/day)
12"	Jan. 1 – Dec. 31	50 lbs/day

Fishery performance: In 2017, 115 commercial fishers (Table 2) landed 299,375 pounds of winter flounder in RI valued at \$900,222 (Table 1). A state quota has not existed since 2006.

RIDEM Division of Marine Fisheries recommendations for 2019: As the fishery is determined to be overfished, but that overfishing is not presently occurring, provide for an increase in the daily possession limit to 75 or 100 lbs/day. Any changes in state waters management would need approval of the ASMFC Winter Flounder Management Board. In 2018, the Division attempted to have a coastwide weekly winter flounder aggregate landing program approved by the ASMFC management board which did not go forward.

SPINY DOGFISH



Stock status: The 2015 stock assessment update indicated that spiny dogfish are not overfished and overfishing is not occurring, with SSB slightly above the target (<http://www.asmfc.org/species/spiny-dogfish>).

Management program: Spiny dogfish is jointly managed on a federal fishing year (May 1 - April 30) by the MAFMC and NEFMC through the FMP for spiny dogfish (<http://www.asmfc.org/species/spiny-dogfish>), and the ASMFC jointly manage the resource. Spiny dogfish are managed under a quota system. The 2017 fishing season (May 1 - April 30) quota was 39.1 million pounds, yet commercial landings have been substantially under the quota limit. Rhode Island's quota is part of the Maine through Connecticut region allocation at 58%, and are limited by a maximum possession of 6000 pounds per vessel per day.

For Rhode Island management, the fishing season is from May 1 through April 30. The possession limit is 6,000 pounds per vessel per day. No minimum size exists currently with the species. A Multi-Purpose License or *Non-Restricted Finfish Endorsement* is required to harvest Spiny dogfish in RI waters.

Fishery performance: In 2017, 48 commercial fishers (Table 2) landed 360,330 pounds of spiny dogfish in RI valued at \$54,801 (Table 1).

RIDEM Division of Marine Fisheries recommendations for 2019: At this time, the Division recommends status quo of the current fisheries management plan. Any changes in state waters management would need approval of the ASMFC Spiny Dogfish Management Board. Maintain in the non-restricted species category.

SMOOTH DOGFISH

Stock status: A benchmark assessment was held for smooth dogfish in 2015, indicating that smooth dogfish is not overfished and not experiencing overfishing (http://sedarweb.org/docs/sar/S39_Atl_smooth_dog_SAR.pdf).

Management program: Smooth dogfish is jointly managed by NOAA Fisheries and ASMFC (<http://www.asmfc.org/species/coastal-sharks>). In November 2017, NOAA Fisheries published the 2018 Atlantic smooth dogfish quota of 1,802.6 dressed weight (dw) metric tons (3,974,012 dw lbs). This quota level remains unchanged from 2017. In 2017, less than a quarter of the Atlantic smooth dogfish quota was harvested. Given that smooth dogfish is not overfished, and overfishing is not occurring, up to 50% of the (federal) base quota can be carried over to the following year if there is an under harvest. NOAA Fisheries rolled over 33% of unused 2017 quota to the 2018 base quota. In 2018 Rhode Island received 1.363% of the coastwide quota, equating to 24.6 dw mt.

For Rhode Island management, the fishing season is from January 1 through December 31. There is no possession limit or minimum size. A Multi-Purpose License or *Non-Restricted Finfish Endorsement* is required by license holders to harvest Smooth dogfish in RI waters.

Fishery Performance: In 2017, 39 commercial fishers (Table 2) landed 58,097 pounds of smooth dogfish in RI valued at \$21,852 (Table 1).

RIDEM Division of Marine Fisheries recommendations for 2019: At this time, the Division recommends status quo of the current fisheries management plan. Any changes in state waters management would need approval of the ASMFC Spiny Dogfish Management Board. Maintain in the non-restricted species category.

SKATE



Stock status: The skate fishery is broken into two categories: winter skate (wing fishery) and little skate (bait fishery). Winter skate are not overfished, and overfishing is not occurring. The average biomass index of winter skate was 6.65 kg/tow, which is above the biomass threshold reference point (2.83 kg/tow) and above the Bmsy proxy (5.66 kg/tow). The 2014-2016 average index is above the 2013-2015 index by 24.2%, thus overfishing is determined to not be occurring.

Little skate are not overfished, and overfishing is not occurring. For little skate, the 2015-2017 NEFSC spring average biomass index of 5.49 kg/tow is above the biomass threshold reference point (3.07 kg/tow) but below the Bmsy proxy (6.15 kg/tow). The 2015-2017 average index is below the 2014-2016 average by 2.6%, which is less than

the 20% change threshold, thus little skate are determined to be not overfished and overfishing is not occurring (<https://www.nefmc.org/management-plans/skates>).

Management program: The skate complex is managed on a federal fishing year (May 1 - April 30) by the NEFMC under the Northeast Skate Complex FMP, which specifies federal-water management for seven skate species (barndoor, clearnose, little, rosette, smooth, thorny and winter skates). The FMP has been updated through a series of amendments and framework adjustments, the most recent being Framework Adjustment 5 to the Northeast Skate Complex FMP. The FMP identifies two skate fisheries, the wing and bait fisheries that focus on winter and little skate, respectively (<https://www.nefmc.org/management-plans/skates>).

In an effort to complement the federal FMP, RI has adopted a weekly possession limit for the wing fishery of 18,200 pounds/vessel/week for wings only; or 41,314 pounds/vessel/week for whole skate. The RI state-water bait fishery is managed and a combination of fishing seasons, daily possession limits, and a maximum size. A Multi-Purpose License or *Non-Restricted Finfish Endorsement* is required to harvest skate in RI waters.

Fishery performance: In FY2017, 142 commercial fishers (Table 2) landed 1,711,287 pounds of winter skate with 279,595 pounds of which were RI state-water landings (wing weight). Also, in FY2017, 42 fishers (Table 2) landed 6,141,698 pounds of little skate of which 2,275,596 pounds were RI state-water landings (whole weight).

RIDEM Division of Marine Fisheries recommendations for 2019: Allowing for a modest increase in effort and would appear to still provide for the directed skate wing and bait skate fisheries to remain open for the entire fishing year. Maintain in the non-restricted species category.

LONGFIN SQUID



Stock status: Based on the 2017 stock assessment update, overfishing was not occurring in the longfin inshore squid (*Doryteuthis pealeii*) stock in 2016 because the average of catchability-adjusted, swept-area biomass estimates derived from the NEFSC spring and NEFSC plus NEAMAP fall surveys during 2015-2016 (73,762mt; 80% CL = 67,198, 80,327) was much greater than the threshold Bmsy proxy of 21,203mt. The overfishing status could not be determined because there are no fishing mortality reference points for the stock

(<https://www.fisheries.noaa.gov/species/longfin-squid>).

Management Program: Longfin squid is managed on a federal fishing year (May 1 - April 30) by the MAFMC under the FMP for Squid, Atlantic mackerel, and Butterfish.

The management unit includes all U.S. waters off the U.S. East Coast. In RI, longfin squid is not a regulated species in state waters. A *Non-Restricted Finfish Endorsement* is required by license holders to harvest longfin squid in RI waters.

Fishery performance: In 2017, 160 commercial fishers (Table 2) landed 10,701,382 pounds of longfin squid in RI valued at \$14,790,686 (Table 1).

Division recommendations for 2019: There is no quota established for longfin squid in RI State waters. Maintain in the non-restricted species category.

NORTHERN SHORTFIN SQUID



Stock status: Northern shortfin squid was last assessed in 2005 at SAW 42 (NEFSC 2006). At SAW 42, it was not possible to evaluate stock status because there were no reliable estimates of stock biomass or fishing mortality rates. Stock status with respect to biomass was unknown. (<https://www.nefsc.noaa.gov/sos/spsyn/iv/sfsquid/>)

Management program: Northern shortfin squid is managed by the MAFMC under the FMP for the Squid, Atlantic mackerel, and Butterfish. The management unit includes all U.S. waters off the U.S. East Coast. In RI, Northern shortfin squid is not a regulated species in state waters. A Multi-Purpose License or *Non-Restricted Finfish Endorsement* is required to harvest northern shortfin squid in RI waters.

Performance of the fishery in 2018: In 2017, 21 commercial fishers (Table 2) landed 23,055,000 pounds of northern shortfin squid in RI worth \$13,536,534 (Table 1).

Division recommendations for 2019: There is no quota or regulations established for northern shortfin squid in RI State waters. Maintain in the non-restricted species category.

LICENSING RECOMMENDATIONS FOR THE NON-RESTRICTED FINFISH ENDORSEMENT FOR 2019

RIDEM Division of Marine Fisheries: The *Non-Restricted Finfish Endorsement* is an open and available to anyone during the application period. The number of these endorsements issued has increased slightly over the past five years by approximately 30 participants, or 20% (Table 4). This relatively low increase in participation has not had a discernible effect on the landings of non-restricted species. It should be noted that this endorsement allows new entrants into the finfish sector, with landings generated from the endorsement used to establish priority in the issuance of the Restricted Finfish Endorsement. **The Division recommends**

maintaining this approach for entry into the fishery and to keep this as an open endorsement for 2019.

RI Marine Fisheries Council: Recommendation to be requested at the October 1, 2018 Council meeting.

SHELLFISH

BAY QUAHOG



Resource assessment: A formal, peer-reviewed stock assessment does not currently exist, but is being developed. However, both landings and relative abundance indices (the latter derived from DEM's hydraulic clam dredge survey) suggest the resource has been stable over the last several years. A new assessment is being developed to better assess the stock's status and improve its scientific rigor.

Management program: A minimum size of 1 inch (hinge width) and daily possession limits have been established, with reduced possession limits established in Shellfish Management Areas to further manage harvest. The fishery is open year-round to RI residents only. A Multi-Purpose License or *Bay Quahog Endorsement* is required to harvest bay quahogs in RI waters.

In 2015, the exit:entry ratio for the *Bay Quahog Endorsement* was changed from 2:1 to 1:1, believing that the number of active fishermen and corresponding effort is more an industry-based economic issue than a resource management or availability issue. While landings have slightly declined over the past five years, the economic value has remained relatively stable. As such, the Division believes that maintaining the 1:1 ratio to increase in number of people participating in the fishery is not having a negative impact and should be continued.

Fishery performance: In 2017, 538 commercial fishers (Table 2) landed 4,096,611 shell weight pounds of bay quahogs (545,497 pounds meat weight), in RI worth \$5,005,362 (Table 1). Landings are broken down by shellfish tagging area and market category in Table 5.

Licensing recommendations for the *Bay Quahog Endorsement* in 2019:

Marine Fisheries: **The Division recommends maintaining effort at current levels by maintaining the 1:1 exit:entry ratio for the Bay Quahog Endorsement.**

In 2018, 32 licenses eligible to harvest quahog were retired (9 MPURP, 13 PEL QUOH, 10 CFL QUOH). Under the current management program, ***this would result in 33 new quahog endorsements on the CFL being issued in 2019.***

RI Marine Fisheries Council: **Recommendation to be requested at the October 1, 2018 Council meeting.**

SOFT-SHELL CLAM



Resource assessment: A dynamic depletion model for open populations based on the work of Restrepo (2001) and Sosa-Cordero (2003) was developed and applied to monthly catch and effort data for the period 2006 to 2011 (Gibson 2012). The preliminary depletion model results suggested that the population declined from 2006 to 2011 with recruitment failing to replace fishery removals (Gibson 2012). Thus, overfishing was occurring. Since 2012 the model has not been able to be updated due to a collapse in the fishery and lack of a depletion response (i.e., landings were so low that the model assumed there was no stock remaining to deplete). During the peak of the fishery in 2010 (Table 6), an increase in minimum size, by itself, did not stop overfishing, and catch limits needed to be reduced to less than three bushels per day to bring fishing mortality rates into balance with resource productivity (Gibson 2012).

In addition to historical overharvest, there is evidence of a range-wide decline of soft-shell clams in response to *Mya leukemia*. (Walker et al. 2009; Metzger et al. 2016). In RI, densities have substantially declined in both fished and unfished soft-shell clam beds. Landings of soft-shelled clams continues to decline (Table 6). Although the Division currently doesn't have a soft-shell clam survey, results from work in the coastal ponds combined with anecdotal observations and landings suggest that the stock is severally depleted.

Management program: A minimum size of 2 inches (total length) and daily possession limits have been established, with reduced possession limits established in Shellfish Management Areas to further manage harvest. The fishery is open year-round to RI residents only. A Multi-Purpose License or *Bay Quahog Endorsement* is required to harvest soft-shell clams in RI waters. The current exit:entry ratio for soft shell clam license endorsements 5:1. The Division is concerned with the low abundance of soft shell clams and thus supports a conservative approach to allowing new entrants in the fishery. Research to better understand mortality sources, including presence or absence

of neoplasia (i.e., leukemia-like cancer, see Metzger et al. 2015) could inform future management practices.

Fishery performance: In 2017, 35 commercial fishers (Table 2) landed 6,760 pounds shell weight of soft-shell clams in RI (1,380 meat weight), valued at \$20,797 (Table 1). Currently, fishery landings are at the lowest recorded levels in the history of the time series.

Licensing recommendations for the *Soft-Shell Clam Endorsement* in 2019:

Marine Fisheries: Due to the continued poor status of the resource, **Marine Fisheries recommends reducing effort by increasing the exit:entry ratio or prohibiting new entrants into the fishery.**

In 2018, 27 licenses eligible to harvest restricted finfish were retired (9 MPURP, 10 PEL SSCLM, 8 CFL SSCLM), **which would result in 6 new CFL soft shell clam endorsements being issued in 2019.**

RI Marine Fisheries Council: **Recommendation to be requested at the October 1, 2018 Council meeting.**

WHELK (Channeled and Knobbed Whelk)



Resource Assessment: In 2010, DEM conducted its first comprehensive analytical assessment on whelk resources in Rhode Island using a biomass dynamic model (BDM) (Gibson 2010). The whelk BDM stock assessment was updated in 2016 and included data through 2016 and resulted in an estimated $F_{msy}=0.53$. A target F rate was also developed for this fishery as a precautionary measure, the updated target F rate is 0.39.

F has risen since the original assessment and is now estimated to be at $F_{2015} = 0.5$, which is at or above both F_{msy} and the F target level, so overfishing is likely occurring. Stock biomass is declining but remains above the threshold for overfished status.

Management Program: The two species of whelk commonly landed in RI are managed under the same regulatory provisions. The fishery is open year-round to RI residents only. All whelks must be landed whole in the shell and adhere to a minimum size (3-inch shell width or 5 $\frac{3}{8}$ inch shell length). A commercial possession limit of 35 bushels/day and a 300-pot limit/licensee have been established. Effort is managed by restricting access to the fishery to Multipurpose License holders or PEL and CFL license holders with a *Whelk Endorsement*. Eligibility for this endorsement is restricted to holders of a PEL or CFL, who already hold an actively fished *Quahog* or *Soft-Shell Clam Endorsement*.

Fishery performance: In 2017, 137 commercial fishers (Table 2) landed 458,765

pounds live weight of whelk (species combined) in RI, with a value of \$1,318,210 (Tables 1 & 7). Of these two species commonly landed in RI, channeled whelk constitutes 98% of reported landings. Since peaking in 2012, whelk landings have generally decreased; however, landings increased in 2017 with total landings (all species) of 458,914 pounds live weight, a 35% increase compared to 2016 (338,914 pounds live weight). The average whelk landings per fisher show an overall decreasing trend from 2010-2016, but increase sharply in 2017 (4,542 pounds/fisher) with an 84% increase over the 2016 average (2,474 pounds/fisher).

Licensing recommendations for the *Whelk Endorsement* for 2019:

Marine Fisheries: Maintain effort at current levels by maintaining the restriction of new issuance of the whelk endorsement only to active quahog and soft-shell clam harvesters.

RI Marine Fisheries Council: **Recommendation to be requested at the October 1, 2018 Council meeting.**

OTHER SHELLFISH

OYSTER



Stock Status: The status of the RI oyster stock is currently unassessed, but is considered greatly depressed compared to historic levels.

According to local researchers studying oyster populations within Narragansett Bay, the effects of disease, environmental conditions, poor sets of new recruits, and fishing pressure are all responsible for the

sharp decline in abundance levels (Oviatt et al. 1998). Given the low abundance of the wild oyster population, increased fishing pressure would facilitate even greater depletions of the resource. Further investigation into the effects of fishing effort is warranted. Several oyster restoration and enhancement projects are currently being conducting in RI waters, as well as research investigating factors influencing recruitment or lack thereof, on natural and restored reefs. Until levels of recruitment increase, the stock will likely remain a severally depleted.

Current Management Program: Oysters are managed under the *Shellfish Other Endorsement*, which is an open entry endorsement. Minimum size and possession limits are established, with reduced possession limits in SMAs . Oyster restoration efforts are being conducted in a number of coastal ponds and portions of the Narragansett Bay, aimed at identifying the best restoration practices for establishing oyster reefs in the closed areas.

Fishery Performance: In 2017, 14 commercial fishers (Table 2) landed 78,470 shell weight pounds of wild oysters, equal to 5,239 meat weight, in RI worth \$34,642 (Table 1).

OTHER SHELLFISH:



Stock Status: Other species of shellfish commercially harvested within Rhode Island waters include blue mussels, bay scallops, sea scallops, surf clams and razor clams. These species are not routinely assessed by DEM, in large part due to the low volume of landings, which results in a lack of available data to conduct comprehensive analytical assessments on the status of these populations. However, landings data and anecdotal evidence from the

commercial fishing industry are reviewed annually by Marine Fisheries and are used for identifying species that warrant further research.

Current Management Program: Species of shellfish other than bay quahog, soft-shell clam, and whelk are included and managed under the *Shellfish Other Endorsement*. Minimum size and possession limits are established for oysters, bay scallop, sea scallop, and surf clam. In addition to creating SMAs to support Oyster management (e.g., Jacobs Point, Bissel Cove, Narrow River, Green Hill Pond), the Sakonnet River SMA was created for the management of surf clams. The *Shellfish Other Endorsement* is an open license category available to any license holder and is not managed with an exit/entry ratio system.

Fishery Performance: In 2017, 4 commercial fishers (table 2) landed 15,407 shell weight pounds, equal to 3,489 meat weight pounds, worth \$38,584 (Table 1).

Licensing recommendations for the *Shellfish Other Endorsement* for 2019:

Marine Fisheries: The division recommends that the *Shellfish Other Endorsement* remains an open license category available to any license holder.

RI Marine Fisheries Council: **Recommendation to be requested at the October 1, 2018 Council meeting.**

CRUSTACEANS

LOBSTER



Stock Status: The 2015 American Lobster Benchmark Stock Assessment and Peer Review Report indicates that the Gulf of Maine/Georges Bank (GOM/GB) American lobster stock is at record high stock abundance and recruitment, whereas the Southern New England (SNE) stock is at record low abundance and recruitment. The

GOM/GBK stock is not overfished and not experiencing overfishing. Conversely, the SNE stock is severely depleted with poor prospects of recovery, necessitating protection (ASMFC, 2015).

Gulf of Maine/Georges Bank: GOM/GBK stock abundance has increased since 1979, but at an accelerated pace since 2007. Current stock abundance is at an all-time high and recruitment has remained high (i.e. 2008 - 2013). However, since 2012, there have been consistent declines in the young-of-year lobster surveys in the GOM/GBK stock. This could foreshadow declines in recruitment and landings.

Southern New England: SNE stock abundance increased from the early 1980s, peaked during the late 1990s, then declined steeply through the early 2000s to a record low in 2013. Both the stock assessment and its peer review support concluded that the SNE stock is severely depleted, with record low abundance and recruitment failure. This poor stock condition can be attributed to several factors including changing environmental conditions, such as warming waters and increased predation, and continued fishing mortality. Declines in population abundance are most pronounced in the inshore portion of the stock where environmental conditions have remained unfavorable to lobsters since the late 1990s. Despite attrition among the fleet and fewer traps fished for lobster, population have continued to decline.

Declines in catch and fishery-independent survey indices in the offshore portion are evident as well; however, they are not as severe. It is believed the offshore area of SNE depends on nearshore larval settlement and offshore migration as the source of recruits (e.g., young of the year lobsters). Therefore, unless fishing effort is curtailed, the offshore component will be in jeopardy in the future when the poor year classes fail to materialize offshore.

Management Program: Lobster is managed by the ASMFC through the [FMP for lobster](#), which is organized by Lobster Conservation Management Areas (LCMA). Rhode Island state waters comprise a portion of LCMA 2. DEM complies with the FMP through a set of management measures including minimum/maximum gauge and escape vent sizes, trap limits, protection of egg-bearing females, v-notching, a trap reduction schedule

(currently in year 4 of a 6-year period), and a 10% conservation tax on trap allocation transfers designed to further reduce the number of traps deployed. Both state (RI-MA) and federal waters are included in LCMA 2, making cooperative management essential. Additionally, in RI, participants in the lobster fishery must possess either a Multipurpose Fishing License, a Principal Effort license with a *Lobster Endorsement*, or a Commercial Fishing License with *Lobster Endorsement*. Participants who do not hold a LCMA 2 Lobster Trap Allocation (LTA) are prohibited from harvesting lobster from pots and are limited to 100 lobsters per day or 500 lobsters for fishing trips 5 days or longer.

Fishery performance: The regional lobster resource has experienced a significant decline in abundance since the 1990's, which has resulted in the removal of latent effort in the fishery and reduced landings. While the number of license holders has decreased, the number of lobster trap allocations (LTAs) in 2017 did not differ greatly than 2016 across fishing license type (Table 2). The trap reduction program continued in 2017-2018, with total traps reduced based on the 5% reduction and the conservation tax (Table 3). In 2017, one-hundred forty-nine fishers landed 2.04 million pounds of lobster in RI, with an ex-vessel value of nearly \$11 million (Table 1).

Division recommendations for 2019: The state will continue to work with the ASMFC to rebuild the lobster resource throughout the region. Attrition may still be occurring in the industry, but at a reduced rate compared to previous years. The state began to neutralize latent effort through the trap reductions included in Addendum XVIII starting in 2016 so that it cannot re-activate if resource conditions improve. Participation in LCMA 2 is based on historical performance and the state has reviewed lobster licensing and made appropriate changes in preparation for limited access-historical performance. A lobster trap allocation transferability program that was initiated with Addendum XII has been developed in consultation with ASMFC and NOAA Fisheries via Addenda XVIII, XIX, and XXI. This can be used to bring new individuals into the fishery without increasing effort above that qualified in the initial trap allocation.

Licensing recommendations for the *Lobster Endorsement* for 2019:

Marine Fisheries: In view of ASMFC compliance requirements and state law, it is recommended that the moratorium on the issuance of new lobster endorsements be continued for 2019.

RI Marine Fisheries Council: **Recommendation to be requested at the October 1, 2018 Council meeting.**

HORSESHOE CRAB



Stock status: The 2013 coast wide stock assessment update of horseshoe crab concluded that each coastal region is experiencing a different trend. The Southeast is the only area indicating an increase in abundance while Delaware Bay shows consistent abundance and the Northeast is seeing a decline (ASMFC, 2013). The 2018 Benchmark Stock Assessment is currently underway with the Atlantic States Marine Fisheries Commission. This update is expected to be presented to the board in March of

2019.

Management program: The commercial horseshoe crab fishery is managed at the regional level by the ASMFC Interstate FMP for horseshoe crabs. In RI waters, horseshoe crab is included and managed under the *Non-Lobster Crustacean Endorsement*. As an unrestricted/open endorsement, any commercial license holder may access the fishery by obtaining a horseshoe crab permit from the DEM for bait and/or biomedical harvest. DEM uses temporal closures, possession limits, -state established quotas, and a permitting/reporting program to achieve compliance with the FMP. For the 2017 fishing year, DEM regulations were adopted establishing broader time closures, improved reporting and reporting compliance measures, a minimum size of 7 inches (prosomal width), and daily possession limits for the bait fishery of 60 crabs per person per day. The biomedical daily possession limit is equal to the total annual quota.

Fishery performance: The use of time closures and possession limits in the State's bait fishery has greatly restricted harvest during peak spawning activity and resulted in reduced fishing mortality rates and harvest equity among participants. However, due to a small quota and the nature of accountable commercial harvest, overages may occur annually and must be deducted from the following year possibly resulting in a shorter harvest season and may limit resource access. As a result of management measures implemented in 2017, bait harvest during 2017 and 2018 was greatly reduced. Annual bait harvest during these years used less than 20% of the allotted quota. Biomedical harvest rates are driven by the needs of biomedical companies which bleed the crabs for medical testing. The estimated mortality rate of bled crabs is 15% (ASMFC, 2013). In 2017, seventeen fishermen contributed to the combined bait and biomedical fisheries landed 93,462 pounds of horseshoe crab worth \$37,275 in RI. (Table 1).

Division recommendations for 2019: The Division will continue to monitor harvest levels to determine the effects of the management measures and strategy implemented in 2017, however it is too soon to conclude if these measures are effective as intended.

Considering the bait fishery has remained open longer than it has in the last 10 years would be an indication of its effectiveness. The Division recommends maintaining as a non-restricted species in the *Other Crustaceans* endorsement category for 2018.

JONAH CRAB



Stock Status: An ASMFC FMP for the Jonah Crab (*Cancer borealis*) fishery was implemented on June 1, 2016. The management plan ties Jonah Crab harvest to fishers holding a Lobster Trap Allocation (LTA) with elements including permitting, minimum size requirements, and the prohibition of egg bearing females. Additional addenda recently adopted by the ASMFC establishes incidental bycatch limits for non-trap gear and non-lobster trap gear and limits on claw harvest. Currently, there is an endeavor by state,

federal, and academic scientists to collect data on Jonah crab life history and population characteristics to perform a formal stock assessment. No time table has been set for such an assessment.

Management Program: Jonah crab is managed at the regional level by the ASMFC FMP for Jonah crab, which was first adopted in 2016 with and includes an (LTA) requirement, a minimum size limit of 4.75 inches and the prohibition of egg bearing females. Pursuant to the FMP, a control date of June 1, 2016 was established in RI. Additional addenda recently adopted by the ASMFC establishes incidental bycatch limits for non-trap gear and non-lobster trap gear and limits on claw harvest DEM achieves FMP compliance through state regulations adopted in 2016, including minimum size (i.e., 4.75”), minimum escape vent and trap size.

Per Addendum I, a bycatch limit of 1,000 crabs per trip for non-trap and non-lobster fishermen was set. To avoid the unintentional outcome of this addendum of creating small industries operating solely under this provision, the ASMFC Jonah Crab Board aimed to define bycatch. As per ASMFC, Jonah crab caught under the bycatch limit must comprise an amount lower, in pounds, than the target species the deployed gear is targeting. Target species is further defined as: “those species primarily sought by the fishermen in the fishery” and are “the subject of directed fishing effort.” Addendum II, adopted in early 2017 allows Jonah crab fishermen to detach and harvest claws at sea, with a required minimum claw length of 2.75” if the volume of claws landed is greater than five gallons. Claw landings less than five gallons do not have to meet the minimum claw length standard.

In RI, Jonah crab is included and managed under the *Non-lobster Crustacean Endorsement*. The directed fishery is limited to any licensed person who holds a lobster trap allocation (LTA), or any person who does not hold an LTA but can prove participation in the Jonah crab fishery prior to the control date.

Fishery performance: Due to the infancy of the FMP and state regulations, it is too early to determine the effects of management measures on the stock's productivity. In 2017, seventy-four fishers landed 3.88 million pounds of Jonah Crab, with an ex-vessel value of \$3.63 million.

Division recommendations for 2019: In view of ASMFC compliance requirements and state law, it is recommended that RI remains compliant with the ASMFC provisions, and continues its work toward collecting biological and fishery information on Jonah Crab for a future, formal stock assessment. No changes to Jonah crab licensing requirements are recommended for 2019. Maintain as a non-restricted crustacean species as well as continue requirements for the directed fishery.

ATLANTIC ROCK CRAB



Stock status: Status unknown; No stock assessment has been performed on Atlantic rock crab

Management program: In RI, Atlantic rock crab is included and managed under the *Non-Lobster Crustacean Endorsement*. As an unrestricted/open endorsement, any license holder may access the fishery. There is neither a possession limit nor The Control date established on June 1, 2016 has not had any additional restrictions in effort or harvest

at this time.

Fishery performance: Being an unregulated fishery, overall performance cannot be determined. In 2017, 32 participants landed 759,864 pounds of Atlantic rock crab with an ex-vessel value of \$358,328.

Division recommendations for 2019: The Atlantic rock crab fishery is not managed under any FMP; it is an unregulated species. Effort limitations are not subject to lobster trap allocation and tagging requirements making enforcement of un-tagged traps problematic in state waters. Consideration should be given to a dedicated trap tag program to potentially control effort and identify fishery specific gear. No changes to licensing requirements are recommended for 2019. Maintain as a non-restricted crustacean.

OTHER CRUSTACEANS:



Stock Status: Commercial commercial landings in RI of crustacean species other than lobster, horseshoe crab, Jonah crab, and Atlantic rock crab include green crab (*Carcinus maenas*), blue crab (*Callinectes sapidus*), deep-sea red crab (*Chaceon quinque-dens*), and mantis shrimp (*Squilla empusa*). These species are not routinely assessed by DEM, in large part due to the low volume of landings, which results in a lack of available data to conduct comprehensive analytical assessments.

However, landings data and anecdotal evidence from the commercial fishing industry are reviewed annually by Marine Fisheries and are useful pieces of information in identifying populations that warrant further research.

Management Program: In RI, Blue crab harvested are subject to a minimum size of 5 inches from shell tip to tip. Harvest is limited to 25 individuals, unless using a scoop or crab net, trot, or hand line. Deep-sea red crab is managed by a federal permit.

Fishery performance: A total of 780,252 pounds of these species were landed in RI by twelve fishers in 2017 for a total ex-vessel value of \$400,440.

Licensing recommendations for the *Non-Lobster Crustacean Endorsement* for 2019:

Marine Fisheries: The division recommends that the Non-Lobster Crustacean Endorsement remains an open license category available to any license holder and is not managed with an exit:entry ratio system.

RI Marine Fisheries Council: **Recommendation to be requested at the October 1, 2018 Council meeting.**

LITERATURE CITED

ASMFC (Atlantic States Marine Fisheries Commission). 2015. American lobster benchmark stock assessment and peer review report. ASMFC, Stock Assessment Report, Washington, D.C. 493 p. Can be viewed at: http://www.asmfc.org/uploads/file/55d61d73AmLobsterStockAssmt_PeerReview_Report_Aug2015_red2.pdf

ASMFC (Atlantic States Marine Fisheries Commission). 2015. Tautog benchmark stock assessment and peer review reports. ASMFC, Stock Assessment Report, Washington, D.C. 283 p. Can be viewed at: http://www.asmfc.org/uploads/file//54eccd8cTautogStockAssessment_PeerReviewReport_Feb2015.pdf

- _____. 2016. Atlantic Striped Bass stock assessment update. ASMFC, Stock Assessment Report, Washington, D.C. 101 p.
- ASMFC (Atlantic States Marine Fisheries Commission). 2013. 2013 Horseshoe Crab Stock Assessment Update, Washington, DC. Can be viewed at:
http://www.asmfc.org/uploads/file//52a88db82013HSC_StockAssessmentUpdate.pdf
- Gibson, M. 2007. Estimating Seasonal Menhaden Abundance in Narragansett Bay from Purse Seine Catches, Spotter Pilot Data, and Sentinel Fishery Observations. Rhode Island Division of Fish and Wildlife, Marine Fisheries Section, Jamestown, RI. Unpublished. Can be viewed at:
<http://www.dem.ri.gov/programs/bnatres/fishwild/pdf/menabnnb.pdf>
- Gibson, M. 2010. Salt Pond Winter Flounder Fishery Issue Paper. Rhode Island Division of Fish and Wildlife, Marine Fisheries Section, Jamestown, RI. Unpublished.
- MAFMC (Mid-Atlantic Fishery Management Council) and ASMFC. 1998. Amendment 1 to the bluefish fishery management plan. Publication of the MAFMC pursuant to National Oceanic and Atmospheric Administration Award No. NA57C0002.
- NEFSC (Northeast Fisheries Science Center). 2013. 55th Northeast Regional Stock Assessment Workshop (SAW 55) Assessment Report. US Dept. Commer, Northeast Fish Sci Cent Ref Doc. 13-11; 849 p.
- _____. 2015. 60th Northeast Regional Stock Assessment Workshop (60th SAW) Assessment Report. US Dept. Commer, Northeast Fish Sci Cent Ref Doc. 15-08; 967 p.
- Richards RA. 2016. 2016 Monkfish Operational Assessment. US Dept Commer, Northeast Fish Sci Cent Ref Doc. 16-09; 109 p. Available from: National Marine Fisheries Service, 166 Water Street, Woods Hole, MA 02543-1026, or online at <http://www.nefsc.noaa.gov/publications/>
- Ganz A., N. Lazar, and A. Valliere. 1999. Narragansett Bay Quahaug Management Plan. RI Division of Fish and Wildlife. Report to the Narragansett Bay Project and RI Marine Fisheries Council.
- Gibson, M.R. 1999. Assessment of quahaugs (*Mercenaria mercenaria*) in Narragansett Bay: technical analyses in support of a bay wide quahaug management plan. RI Division of Fish and Wildlife. Res. Ref. Doc. 99/2.
- Gibson, M.R. 2010. Stock Assessment of Whelk in Rhode Island and Recommendations for Research and Management. In progress
- Gibson, M.R. 2012. Stock Assessment of Soft-Shell Clams (*Mya arenaria*) in Rhode Island Using a Dynamic Depletion Model Applied to SAFIS Data. Draft Report - RI Division of Fish and Wildlife.

- Metzger, M.J., C. Reinisch, J. Sherry, and S.P. Goff. 2015. Horizontal Transmission of Clonal Cancer Cells Causes Leukemia in Soft-Shell Clams. *Cell* 161, 255–263. April 9, 2015 Elsevier Inc.
- Metzger, M., A. Villalba, M. J. Carballal, D. Iglesias, J. Sherry, C. Reinisch, A. F. Muttray, S. Baldwin, and S. Goff. 2016. Widespread transmission of independent cancer lineages within multiple bivalve species. *Nature*. 534. 705-709.
- Methot Jr., R.D., and C.R. Wetzel. 2013. Stock synthesis: A biological and statistical framework for fish stock assessment and fishery management. *Fisheries Research* 142: 86-99.
- Oviatt, C, Wolff, N, VanKeuren, D, and E. Nicosia. 1998. Oysters (*Crassostrea virginica*) as indicators of a climate warming trend in Northeast waters. CR822051-010 Final report. Funding agency: Environmental Protection Agency.
- Restrepo, V.R. 2001. Dynamic depletion models. Pages 345-356, In: J. G. Cano and V.R. Restrepo, eds. Report on the FAO/DANIDA/CFRAMP WECAFC regional workshops on the assessment of spiny lobster *Panulirus argus*. Belize City, Belize April 21- May 2, 1997 and Merida, Yucatan Mexico June 1-12, 1998. FAO Fish. Rep. 619. Part III: Stock Assessment Methods.
- Sosa-Cordero, E. 2003. Trends and dynamics of the spiny lobster, *Panulirus argus*, resource in Banco Chinchorro, Mexico. *Bull. Mar. Sci.* 73: 203-217.
- Walker, Charles & Anne Böttger, S & Mulkern, Joseph & Jerszyk, Emily & Litvaitis, Marianne & Lesser, Michael. 2009. Mass culture and characterization of tumor cells from a naturally occurring invertebrate cancer model: Applications for human and animal disease and environmental health. *The Biological Bulletin*. 216. 23-39.

TABLES

Table 1. 2017 pounds landed and total x-vessel value for species landed in Rhode Island.

Species	2017 Total Lbs Landed	2017 Total x-vessel value
Black Sea Bass	458,131	\$1,603,688
Scup	5,968,081	\$3,040,684
Striped Bass	175,312	\$759,653
Summer Flounder	897,311	\$4,304,769
Tautog	52,844	\$194,380
Bluefish	646,979	\$462,880
Atlantic Cod	96,427	\$278,573
Atlantic Herring	4,535,139	\$938,667
Menhaden	1,752,756	\$136,869
Monkfish	1,472,182	\$2,060,988
Winter Flounder	299,375	\$900,222
Skates (Wings)	2,129,406	\$853,203
Skates (Bait)	5,509,875	\$703,046
Spiny Dogfish	360,330	\$54,801
Smooth Dogfish	58,097	\$21,852
Squid (Longfin)	10,701,382	\$14,790,686
Squid (Illex)	23,055,000	\$13,536,534
Lobster	2,039,539	\$10,978,486
Jonah Crab	3,881,368	\$3,633,009
Horseshoe Crab	93,462	\$37,275
Atlantic Rock Crab	759,864	\$358,328
Other Crabs	20,388	\$42,112
Quahog*	545,497	\$5,005,362
Soft-shell Clam*	1,380	\$20,797
Whelk (Channeled and Knobbed)*	441,996	\$1,318,210
Other Shellfish*	3,489	\$38,584
Sea Scallops*	2,189,362	\$21,651,985
Oyster*	5,239	\$34,642

* = meat weight

Table 2: Number of participants per species per year (2013-2017)

Species	2013	2014	2015	2016	2017
BAIT SKATE	25	32	30	36	42
BLUEFISH	380	370	340	362	339
CLAM, NORTHERN QUAHOG	517	539	524	562	538
CLAM, SOFT	48	58	62	41	35
COD, ATLANTIC	123	109	127	139	107
CRAB, ATLANTIC ROCK	29	25	20	31	23
CRAB, HORSESHOE	13	6	3	17	17
CRAB, JONAH	87	74	67	69	74
DOGFISH, SMOOTH	45	34	42	32	39
DOGFISH, SPINY	91	57	54	57	48
FLOUNDER, SUMMER (FLUKE)	547	491	484	527	502
FLOUNDER, WINTER	125	140	120	110	115
GOOSEFISH	173	164	145	165	174
HERRING, ATLANTIC, SEA	36	30	32	34	30
LOBSTER, AMERICAN	180	164	149	154	149
MENHADEN	5	9	9	8	11
OTHER CRUSTACEAN	7	6	13	12	12
OYSTER, EASTERN	37	33	39	20	14
SCALLOP, SEA	62	49	36	56	54
SCUP	439	449	418	450	437
SEA BASS, BLACK	470	474	484	504	543
SHELLFISH OTHER	7	5	5	3	4
SKATE WINGS	154	138	127	140	142
SQUID, LONG FINNED (LOLIGO)	163	161	153	162	160
SQUID, SHORT FINNED (ILLEX)	10	15	6	12	21
STRIPED BASS	368	330	292	267	286
TAUTOG	235	232	226	231	250
WHELK	224	159	153	140	137

Table 3. Possession limits (pounds) modifications for common Rhode Island commercial fisheries January through July 2018.

Species	Date of Modification	Species	Date of Modification	Species	Date of Modification
Black Sea Bass	500/wk (1/1)*	Bluefish	500/wk (1/1)*	Scup Gen. Cat.	50,000/day (1/1)*
	750/wk (4/1)		1,000/bi-wk (4/1)		10,000/wk (5/1)*
	1,000/wk (4/15)		6,000/wk (5/1)*		
	50/day (5/1)*		10,000/wk (5/27)		20,000/wk (7/29)
	Closed (6/17)				
	50/day (7/1)*		15,000/wk (7/15)		
Scup FFT	50,000/day (1/1)*	Striped Bass Gen. Cat.	Closed (1/1)	Striped Bass FFT	Closed (1/1)
	Unlimited*		5 fish/day (5/20)*		Unlimited (4/1)*
			Closed (7/3)*		
Summer Flounder (w/o Ex. Permit)	100/day (1/1)*	Summer Flounder (with Ex. Permit)	100/day (1/1)*	Tautog	Closed (1/1)
	50/day (5/1)*		50/day (5/1)*		10 fish/day (4/1)*
					Closed (5/27)

DRAFT

Table 4. Historical commercial license counts (2012 – 2018)

LICENSE TYPE	2012	2013	2014	2015	2016	2017	2018
MULTI-PURPOSE LICENSE	853	829	816	804	802	789	771
<i>GILLNET ENDORSEMENT</i>	233	227	221	218	218	214	213
<i>DOCKSIDE SALE ENDORSEMENT</i>	251	241	236	236	245	242	239
<i>MIDWATER/PAIR TRAWL ENDORSEMENT</i>	131	132	133	137	139	145	145
<i>PURSE SEINE ENDORSEMENT</i>	139	134	134	129	136	140	144
PRINCIPAL EFFORT LICENSE	690	655	615	593	580	586	585
<i>LOBSTER ENDORSEMENT</i>	36	30	27	21	20	19	16
<i>NON-LOBSTER CRUSTACEAN ENDORSEMENT</i>	33	35	36	33	33	35	36
<i>QUAHOG ENDORSEMENT</i>	398	376	347	340	322	321	327
<i>RESTRICTED FINFISH ENDORSEMENT</i>	266	262	258	251	252	266	277
<i>NON-RESTRICTED FINFISH ENDORSEMENT</i>	131	135	133	130	152	159	168
<i>SOFT SHELLED CLAM ENDORSEMENT</i>	256	235	204	194	183	186	176
<i>WHELK ENDORSEMENT</i>	146	118	79	62	53	63	60
<i>DOCKSIDE SALE ENDORSEMENT</i>	13	13	12	11	13	15	14
<i>MIDWATER/PAIR TRAWL ENDORSEMENT</i>	9	8	9	7	10	9	13
<i>PURSE SEINE ENDORSEMENT</i>	8	7	6	5	9	9	13
<i>OTHER SHELLFISH ENDORSEMENT</i>	225	211	186	177	177	173	166
COMMERCIAL FISHING LICENSE	398	420	404	412	416	429	433
<i>LOBSTER ENDORSEMENT</i>	16	15	14	14	12	11	9
<i>NON-LOBSTER CRUSTACEAN ENDORSEMENT</i>	114	100	101	95	95	104	104
<i>QUAHOG ENDORSEMENT</i>	158	165	181	189	197	217	215
<i>RESTRICTED FINFISH ENDORSEMENT</i>	0	0	0	0	0	0	0
<i>NON-RESTRICTED FINFISH ENDORSEMENT</i>	252	256	240	243	248	253	270
<i>SOFT SHELLED CLAM ENDORSEMENT</i>	174	163	155	148	139	129	124
<i>WHELK ENDORSEMENT</i>	109	92	75	65	58	56	53
<i>DOCKSIDE SALE ENDORSEMENT</i>	16	14	16	16	15	18	17
<i>MIDWATER/PAIR TRAWL ENDORSEMENT</i>	40	46	39	39	40	37	41
<i>PURSE SEINE ENDORSEMENT</i>	42	40	42	43	41	40	42
<i>OTHER SHELLFISH ENDORSEMENT</i>	171	160	149	152	142	129	145
OVER 65 SHELLFISH LICENSE	240	268	289	309	350	369	389
STUDENT SHELLFISH LICENSE	49	48	47	37	48	39	30

Table 5. 2017 RI commercial quahog landings for shellfish tagging areas by market category.

Shellfish Tagging Areas	Count of Quahogs Landed by Market Size					Total
	Little Neck	Top Neck	Cherry	Chowder	Un-classified	(#)
1A Conditional Area A	7,740,527	2,428,848	241,684	733,650	0	11,144,708
1B, Conditional Areas B & C	3,466,554	1,006,940	151,872	189,773	0	4,815,139
2 Greenwich Bay	1,164,849	351,803	40,410	49,617	0	1,606,679
3A, C, F, H West Passage MAs	105,621	5,090	1,894	496	0	113,102
3W West Passage	1,370,476	383,185	117,525	114,400	0	1,985,586
4A, B East Passage	2,178,565	843,671	23,368	418,943	0	3,464,547
5A, K Mount Hope Bay	5,729	1,802	286	712	0	8,529
5B Sakonnet River	19,197	11,393	0	6,775	0	37,365
6B, N, P, W, W Coastal Ponds & Block Island	643,566	79,158	2,501	23,504	0	748,729
Unknown	142,941	28,337	7,797	5,481	0	184,556
Total	20,160,404	6,116,909	743,191	1,564,835	0	24,108,939

Table 6. RI commercial soft-shell clam landings (lbs) for 2010-2018 by shellfish tagging area. N/A indicates confidential data.

Shellfish Tagging Area	2010	2011	2012	2013	2014	2015	2016	2017
RI 1 - UPPER NARRAGANSETT BAY	138754	15406						
RI 1A - CONDITIONAL AREA A	498901	49321	2371	N/A	5225	5876	1198	1174
RI 1B - CONDITIONAL AREA B		1849	192	92	1014	1223	N/A	223
RI 1C - CONIMICUT TRIANGLE		46476			N/A	12414	N/A	
RI 3 – F,W – Bissel Cove/Fox Island, West Passage	36227	16745	10377	14453	10024	7002	3302	1875
RI 4 – East Passage	13092	377	N/A	3927	2551	3113	132	13092
RI 5 A,B,K – Mt Hope Bay, Sakonnet River, Kickemuit		N/A	N/A	N/A	177	N/A	N/A	N/A
RI 6 Coastal Ponds	13749	33619	26579	29335	10420	4792	N/A	N/A

Table 7. Historical RI whelk landings and value (2006-2017).

Year	Total Landings (Live Pounds)	Total Landings Value (\$)
2006	368,028	450,137.43
2007	361,486	336,485.75
2008	423,952	407,997.33
2009	716,386	742,411.90
2010	659,204	973,404.09
2011	746,495	1,312,836.57
2012	773,885	1,599,227.40
2013	584,896	1,268,155.53

2014	446,154	1,036,116.42
2015	493,166	1,279,090.83
2016	338,914	909,068.20
2017	458,765	1,318,209.76

Table 8. Rhode Island Commercial Fishing License and Lobster License/Endorsement Issuance Data, 2013-2017 Fishing Years.

License Type	2013	2014	2015	2016	2017
MULTI-PURPOSE LICENSE	829	816	804	802	789
<i>MPL with Area 2 Lobster Trap Allocation (LTA)</i>	317	308	298	304	304
<i>DOCKSIDE SALE ENDORSEMENT</i>	241	236	236	245	242
PRINCIPAL EFFORT LICENSE	655	615	593	580	586
<i>LOBSTER ENDORSEMENT with LTA</i>	34	29	25	21	19
<i>NON-LOBSTER CRUSTACEAN ENDORSEMENT</i>	35	36	33	33	35
<i>DOCKSIDE SALE ENDORSEMENT</i>	13	12	11	13	15
COMMERCIAL FISHING LICENSE	420	404	412	416	429
<i>LOBSTER ENDORSEMENT with LTA</i>	5	4	4	4	4
<i>NON-LOBSTER CRUSTACEAN ENDORSEMENT</i>	100	101	95	95	104
<i>DOCKSIDE SALE ENDORSEMENT</i>	14	16	16	15	18

Table 9. Description of allocated traps, maximum traps fished, and the reduction of traps in 2017. Traps retired include those associated with the reduction program decrease and the conservation transfer tax.

Area	# of Traps Allocated	# of Traps Transferred	Max # of Traps Fished	# of Traps Retired due to Reductions
Area 2	79,570	1,147	30,318	3,689
Area 3	35,092	0	32,147	4,417

PHOTO CREDITS

- **Black Sea Bass:** <http://www.pewtrusts.org/en/about/news-room/opinion/2013/05/20/federal-fish-law-is-on-the-hook-for-black-sea-bass-recovery>
- **Scup:** <http://keywordsuggest.org/gallery/576192.html>
- **Striped bass:** <http://www.delaware-surf-fishing.com/delawares-2015-striped-bass-regulations/>
- **Summer flounder:** <https://www.sportfishingmag.com/summer-flounder-stock-assessment-2017-congress>
- **Tautog:** <http://www.angling-addict.com/2011/04/tautog-rig.html>
- **Atlantic herring:** <http://www.seachoice.org/our-work/species/atlantic-herring/>
- **Bluefish:** https://en.wikipedia.org/wiki/Bluefish#/media/File:Very_Large_Bluefish.JPG
- **Atlantic cod:** <http://identifyfish.blogspot.com/2010/10/atlantic-cod-gadus-morhua.html>
- **Atlantic menhaden:** <https://www.hatchmag.com/articles/bunker-advocates-deliver-over-90000-comments-asmfc-vote-pending/771137>
- **Monkfish:** <http://www.realmonstrosities.com/2014/12/deep-sea-goosefish.html>
- **Spiny dogfish:** https://en.wikipedia.org/wiki/Spiny_dogfish
- **Smooth dogfish:** <http://www.discovery.com/tv-shows/shark-week/bios/smooth-dogfish-shark/>
- **Longfin squid:** <https://noaateacheratsea.blog/2015/07/03/david-walker-equilibrium-at-sea-days-6-9-july-3-2015/olympus-digital-camera-701/>
- **Northern shortfin squid:** <http://floridasportfishing.com/squid-school/>
- **Bay quahog:** <https://www.rimonthly.com/celebrate-local-clams-quahog-week/>
- **Soft-shell clams:** <http://www.tonyandsonsseafood.com/shellfish.html>
- **Whelk:** <http://seagrants.gso.uri.edu/the-secret-life-of-whelks/>
- **Oyster:** <http://seagrants.gso.uri.edu/research/research-2016-2018/>
- **Other shellfish (blue mussel):** <http://newenglandboating.com/nantucket-sound-home-to-an-aquaculture-first/>
- **American lobster:** <http://theweek.com/articles/469901/how-calculate-lobsters-age>
- **Horseshoe crab:** <https://longreads.com/2017/04/18/the-pitfalls-and-promise-of-the-horseshoe-crab-unlikely-biomedical-hero/>
- **Jonah crab:** <https://www.sciencesource.com/archive/>
- **Atlantic rock crab:** <https://joshfecteau.com/16-30-nature-notes-aug-24-30-atlanticrockcrab08242016/>
- **Other crustaceans (blue crab):** <https://www.instructables.com/id/Crabbing-For-Beginners/>

LIST OF ACRONYMS

ASMFC: Atlantic States Marine Fisheries Council
ACCSP: Atlantic Coastal Cooperative Statistics Program
MAFMC: Mid-Atlantic Fisheries Management Commission
NEFMC: New England Fisheries Management Commission
NOAA: National Oceanic and Atmospheric Administration

SAFIS: Standard Atlantic Fisheries Information System
NEFSC: New England Fisheries Science Center (NOAA)
MPURP: Multi-purpose commercial fishing license
PEL: Principal Effort commercial fishing license
CFL: Commercial fishing license
PRFIN: PEL Restricted Finfish Endorsement
CQUOH: CFL Quahog Endorsement
CSSCLM: CFL Soft Shell Clam Endorsement
LTA: Lobster Trap Allocation
LCMA: Lobster Conservation Management Area
mt: Metric Tons
dw: Dressed Weight
FY: Fishing year
FMP: Fisheries Management Plan
F: Fishing mortality
Fmsy: Fishing mortality maximum sustainable yield
Bmsy: Spawning stock biomass maximum sustainable yield
DAS: Days at sea
TAL: Total allowable landing
TAC: Total allowable catch
NMFS: National Marine Fisheries Service (NOAA)
BRF: Biological reference point

Draft

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

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Title of Rule: PART 1 – Definitions and General Provisions (250-RICR-90-00-1)

Rule Identifier: 250-RICR-90-00-1

Rulemaking Action: Proposed Amendment

Important Dates:

Date of Public Notice: 08/28/2018

Hearing Date: 09/10/2018

End of Public Comment: 09/27/2018

Authority for this Rulemaking:

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

Summary of Rulemaking Action:

Summary of proposed rule

- None of the proposed changes on considered by the Division to be substantive in nature;
- Proposed deletion of the following terms as obsolete, duplicative and/or otherwise unnecessary: "Actively fishing; Actively participating; Application deadline; Basic harvest and gear level; Dockside sales endorsement; Full harvest and gear level; Replace; Reporting period; Unreasonable hardship; Vessel declaration; Vessel upgrade";
- Proposed addition of new term "Beach seine";
- Proposed minor modification for clarification of the following terms: "Charter and party vessel; Disposition; Exit/entry ratio; Fishery sector; Fish trap; Gear; Incapacity; Lottery; Medical hardship; Person; Seine; Trip level data".

Additional Information and Comments:

All interested parties are invited to request additional information or submit written or oral comments concerning the proposed amendment until September 27, 2018 by contacting the appropriate party at the address listed below:

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

Public Hearing:

A public hearing, in accordance with R.I. Gen. Laws § 42-35-2.8, to consider the proposed amendment shall be held on September 10, 2018 at 6:00 pm at URI Bay Campus, South Ferry Road, Corless Auditorium, Narragansett, RI 02882 at which time and place all persons interested therein will be heard. The seating capacity of the room will be enforced and therefore the number of persons participating in the hearing may be limited at any given time by the hearing officer, in order to comply with safety and fire codes.

The place of the public hearing is accessible to individuals who are handicapped. If communication assistance (readers/interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call 401-222-5300 or RI Relay 711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting.

Regulatory Analysis Summary and Supporting Documentation:

There is no regulatory analysis completed. The societal costs and benefits and cost of compliance is unchanged

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

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

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Title of Rule: Commercial and Recreational Saltwater Fishing Licensing Regulations (250-RICR-90-00-2)

Rule Identifier: 250-RICR-90-00-2

Rulemaking Action: Proposed Amendment

Important Dates:

Date of Public Notice: 08/28/2018

Hearing Date: 09/10/2018

End of Public Comment: 09/27/2018

Authority for this Rulemaking:

R.I. Gen. Laws Chapters 42-17.1, 20-2.1, and 20-2.2, R.I. Gen. Laws § 20-1-4 and in accordance with R.I. Gen. Laws Chapter 42-35

Summary of Rulemaking Action:

1. Section 2.7.1(D)(1); p. 6; Restricted Finfish Endorsement:
 - Maintain 1:1 exit:entry ratio for the Restricted Finfish Endorsement.
 - Modify exit:entry ratio for the Restricted Finfish Endorsement from 1:1 to 1:2.
- Rationale: In 2018, fifteen (15) licenses eligible to harvest restricted finfish were not renewed (9 multipurpose, 6 Principal Effort w/RFF endorsement). Maintaining the 1:1 exit to entry ratio would therefore result in fifteen **(15)** new PEL w/restricted finfish endorsements being issued in 2019; with a 1:2 ratio resulting in thirty **(30)** new licenses issued.

The argument for increasing the number of available licenses entering the restricted finfish fishery stems from concerns about the increase in average age of the current license holders (~ 60 yrs) and the lack of new fishers entering the industry. There is concern amongst some fishers that the industry, particularly smaller vessel operations that frequent Narragansett Bay and coastal inshore waters, could disappear if new and younger fishers aren't entering into the industry to replace those leaving due to retirement or illness. Conversely, the argument for not increasing effort stems from concerns regarding the current lack of available resource/quota in the restricted fisheries to support existing commercial fishing businesses. Generally speaking, the goal for quota managed species is to maintain open seasons at commercial viable possession limits. If seasons become too short and/or possession limits become too low, the commercial viability of current operations changes. Established seasons for targeted quota species such as summer flounder, black sea bass, striped bass, and tautog rarely remain open for the entirety of the season due to the level of participation (i.e., number of active

fishers and size of operations). Any increase in effort (e.g., increase in number of participants) has the potential to further reduce seasons and daily possession limits.

It is difficult to predict the exact effects that a ratio change will have on a given fishery. This is compounded by the fact that the restricted category encompasses several different fisheries. Empirical information on new entry levels around 15 licenses have not dramatically impacted catch rates across fisheries in recent history. An increase in new licenses beyond this has not been experienced since the advent of the current licensing program, and it is therefore difficult to predict what this level of new licenses will do to the restricted fisheries. It can be assumed that some increase in fishing activity will result, as these new entrants are likely to actively fish their license, while the licenses that have been retired rarely have high levels of activity associated with them. However, it is impossible to know the size of operations of any new licensees, as licenses are issued through a priority sequence and then a lottery process. It is also impossible to know if licensees will increase their operations (e.g., larger vessel, increased daily harvest) over time given their new access to this fishery.

The costs and benefits of increasing licenses by a significant amount are difficult to quantify. They may provide some benefit by increasing the probability that a new fisherman will get an opportunity to run a fishing business in the state, but an uncertainty exists in that there is no guarantee that the new licenses will go to new and/or younger fishermen. Additionally, the costs by way of impacts to existing fishing businesses through decreased seasons and possession limits is unknown. These sources of uncertainty should be considered when developing public comments on this issue.

2. Section 2.7.2(A); p. 7: Division proposal to add a due date for the public availability of the updated Sector Mgmt. Plan (combined with item 3).

- This proposal is combined with the proposed deletion of 2.7.4(B) described below in item 3. The purpose of a date is for the need of the availability of draft plans to the public/IAC in a timely manner prior to the public hearing on commercial licensing held annually in September.

3. Former section 2.7.4(B); p. 9: Division proposal to remove the content and due date for the issuance of an annual report to the General Assembly on the conservation and management of marine fisheries resources (i.e., Sector Management Plans) (combined with item 2).

- It is not necessary that the rules address issuance of an annual report to the General Assembly. It is probable that this date was adopted to assure that the Sector Mgmt. Plan is made publicly available in a timely manner, prior to the annual hearing on commercial licensing, which is addressed in item 2 above.

4. Former section 2.7.6(A)(2); p. 10: Division proposal to remove the requirement that the Department provide a list of reporting requirements at the time of license issuance or renewal to applicants for commercial fishing or dealer licenses or landing permits.

- This procedure is not currently implemented and is felt to be unnecessary. Any changes to the reporting requirements are done through the public hearing process. Applicants are notified in writing per rule of any reporting deficiencies prior to the end of the application period per current rule.
5. Former section 2.7.6(A)(4); p. 10: Division proposal to remove the requirement that the Department notify license holders of a reporting deficiency via certified mail.
 - This procedure is not currently implemented and is felt to be unnecessary; letters are mailed to address provided by license holder. The certified mail process is overly burdensome and does not provide guarantees that all license holders will be reached.
 6. Section 2.7.4(C); p. 11: Division proposal to re-locate language regarding the timeframe for when fishing trips must be documented from the "*Paper Catch and Effort Harvester Logbook*" section to "*Data Reporting*" section.
 - Trip reporting is required for all license holders; this language therefore belongs in the Data Reporting section so as to apply more broadly to all license holders.
 7. Section 2.7.4(C); p. 11: Division proposal to change the requirement regarding the due dates that fishing trips must be documented.
 - ";
 - ".

Rationale: Requirement that trips be documented "*prior to landing*" is consistent with federal rules. Option #2 is also offered for consideration as a possible compromise between current language and the option 1 language.

8. Section 2.7.4(E); p. 11: Division proposal to add reporting due dates.
 - The reporting due dates are currently only provided on the Paper Logbook instructions and not in regulation. Such due dates need to be included in regulation to be known and to be enforceable.
9. Former section 2.7.6(B)(2); p. 12: Division proposal to remove the requirement that license holders will be notified in writing as to the form of such reports, their content, and the manner in which and frequency with which they are required to be transmitted by December 1 for the following year.
 - License holders are only notified annually of reporting deficiencies and new license opportunities. Any changes to reporting requirements are done through hearing and are publicly noticed.
10. Section 2.7.5(E)(3); p. 19: Division proposal to amend the date that requires the Department to issue new licenses following the application deadline. Proposal is to change from fifteen days to ninety days:
 - The 15-day timeframe is not currently being met and is unrealistic to meet due to volume of applications received, combined with the timing of the application deadlines and lottery process. The 90-day timeframe provides the Department with a more realistic timeframe to process applications and issue the license.
11. Section 2.7.5(H); p. 27: Proposed change/clarification of procedure regarding the appeal of a license denial due to medical hardship.

- As written, language does not accurately describe this process. Proposed changes meant to reflect actual process.
12. Proposed new section 2.9.2; p. 47: Proposed addition of reporting requirements for Party/Charter vessels.
- Proposal brought to hearing as directed by the Council.

Additional Information and Comments:

All interested parties are invited to request additional information or submit written or oral comments concerning the proposed amendment until September 27, 2018 by contacting the appropriate party at the address listed below:

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

Public Hearing:

A public hearing, in accordance with R.I. Gen. Laws § 42-35-2.8, to consider the proposed amendment shall be held on September 10, 2018 at 6:00 pm at URI Bay Campus, South Ferry Road, Corless Auditorium, Narragansett, RI 02882 at which time and place all persons interested therein will be heard. The seating capacity of the room will be enforced and therefore the number of persons participating in the hearing may be limited at any given time by the hearing officer, in order to comply with safety and fire codes.

The place of the public hearing is accessible to individuals who are handicapped. If communication assistance (readers/interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call 401-222-5300 or RI Relay 711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting.

Regulatory Analysis Summary and Supporting Documentation:

A regulatory analysis has not been completed. The summary provides rationale for the proposed options for hearing item #1 regarding the proposed options for the exit:entry ratio for the Restricted FInfish endorsement

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

Public Hearing
September 10, 2018

Proposed/annotated amendments

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

250-RICR-90-00-1

TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 90 – MARINE FISHERIES

SUBCHAPTER 00 – N/A

PART 1 – Definitions and General Provisions

1.7 Definition of Terms

~~"Actively fishing" means a license holder will be considered to have been actively fishing that license/endorsement if he or she demonstrates by dated transaction records, as verified by dealer reports to the Department, that he or she has fished at least 40 days in the preceding two calendar years, with some of the fishing activity occurring in each of the two years. Evidence as to days fished may be supplemented by one or more Vessel Trip Reports, which specifically reference the license holder's name and license number, and correspond to dated transaction records, where in the determination of the Department such dates are verified by dealer reports to the Department; where such reports verifiably reflect two or more calendar days at sea during a single trip, those days may be used to establish fishing activity. For the purpose of this definition the term "day" shall mean any 24-hour period or part thereof. A license holder with a dockside sales endorsement who sells all of his or her lobster and/or crab landings dockside may utilize documentation other than dated transaction records to establish fishing activity, pursuant to the standards and criteria set forth in RIMFR "Commercial and Recreational Saltwater Fishing Licensing Regulations" Part 2 of this Subchapter.~~

~~"Actively participating" means a crew member will be considered to have been actively participating in the fishery if he or she demonstrates via one or more affidavits that he or she has fished in the fishery with one or more licensed captains at least 40 in the preceding two calendar years, with some of the fishing activity occurring in each of the two years. Crew members may also demonstrate longevity in the fishery via one or more affidavits from licensed captains who they fished with in previous years.~~

Commented [DP(1)]: As written, not all criteria to meet this standard is not provided in this term. This term was written before additional criteria was added to Part 2. Is therefore incomplete as written here. Deletion of this term is in conjunction with proposed amendments to Part 2 to clarify the rule. There is no effect of these changes, only clarifications and improved readability. Necessary to direct reader to the Licensing regs (Part 2) to understand all aspects of eligibility/applicability.

Commented [DP(2)]: This is duplicative; added to Part 2 as regulation

~~"Application deadline" means February 28, or the first business day following February 28 if that day falls on a Saturday, Sunday, or holiday.~~

Commented [DP(3): Deadline dates are clearly specified. Not necessary as a term

~~"Basic harvest" and "Gear level" means the harvest and/or gear restrictions governing each fishery endorsement category pertaining to Commercial Fishing Licenses, as well as Student Shellfish Licenses, and 65 and Over Shellfish Licenses.~~

Commented [DP(4): Obsolete

"Beach seine" means a seine that is deployed from the shore.

~~"Charter" and "Party or Charter boat vessel" means any vessel that carries passengers for hire to engage in fishing.~~

"Disposition" means the intended use or fate of the catch landed marine species after leaving the dealer premises, ~~such as sold for (e.g., food, sold for or bait, etc).~~

~~"Dockside sales endorsement" means a notation on a license or landing permit that authorizes the holder to sell live lobsters and/or crabs directly to consumers at dockside.~~

Commented [DP(5): "Endorsement" is defined; Part 2 specifies applicability of all endorsements, this is duplicate. Other endorsement types are not defined; proposed removal for consistency

"Exit/entry ratio" means ~~a formula established by regulation for a fishery or fisheries which identifies~~ the number of new fishing licenses restricted license endorsements in each category that will be issued made available for each endorsement ~~one that is retired and~~ surrendered to the Department, on an annual basis.

"Fishery sector" means ~~one of three general fishery classifications, each encompassing two or more fishery endorsement categories: Shellfish (encompassing Quahaug, Soft-shell Clam, Whelk, and Other Shellfish); Finfish (encompassing Restricted and Non-Restricted Finfish); and Crustacean (encompassing Lobster and Non-Lobster Crustacean) and comprises crustaceans, finfish, shellfish, as defined in this section, each of which shall singularly be considered a fishery sector (R.I. Gen. Laws § 20-2.1-3).~~

Commented [DP(6): Changed back to statutory definition. More informative than regulatory. Do not want to discuss endorsements, not relative

"**Floating** Fish trap" means a floating ~~trap, weir, pounds~~ net or any equivalent contrivance, set on, in or anchored to the bottom or shore, used for the purpose of catching fish (R.I. Gen. Laws § 20-5-1).

~~"Full harvest" and "gear level" means the harvest and/or gear restrictions governing each fishery endorsement category pertaining to Principal Effort Licenses, and for all species pertaining to Multi-Purpose Licenses.~~

Commented [DP(7): Obsolete

"Gear" means any device or mechanism other than a vessel employed to ~~catch fish, shellfish or crustaceans~~ harvest marine species.

"Incapacity" means death of, or injury that renders an active licensed ~~fisher~~ holder unable to fish for a period in excess of fourteen (14) days either as a

result of the physical loss of function or impairment of a body part or parts, or debilitating pain.

"Lottery" means any of a variety of **techniques procedures used** to **distribute determine priority in the issuance of new** licenses or permits **when the demand for such in cases where only a limited number of new** licenses or permits **exceeds the supply are available**; such techniques having the common characteristics of being verifiably blind, random, fair and equitable.

"Medical hardship" means ~~an applicant's~~ significant medical condition that prevents ~~them~~ **a license holder** from meeting licensing application requirements

~~"Replace" means to substitute an equivalent vessel in place of a vessel, and does not permit the vessel being replaced to continue to be employed in the taking of summer flounder.~~

Commented [DP(8): Has more than one meaning as used in RIMFR. Rule is clear as it relates to "replacement vessel"

~~"Reporting period" means the period of time between the dates where dealers must provide reports on their activities (i.e. if the reports are required on Monday and Thursday, the reporting periods are Friday, Saturday, Sunday, and Monday for period one and Tuesday, Wednesday, and Thursday for period two).~~

Commented [DP(9): The reporting "frequency" is clear in reg

"Seine" means any net used to catch fish by encirclement or herding **that hangs vertically in the water with its bottom edge held down by weights and its top edge buoyed by floats.**

"Trip level data" means data reported to the detail of each individual fishing voyage **trip.**

~~"Unreasonable hardship" means substantial economic loss which is unique to a person, including but not limited to adverse medical or personal circumstances, and which has not been caused or exacerbated by prior actions of or inaction on the part of that person.~~

Commented [DP(10): Term no longer used in RIMFR; was relative only to the Comm. Lic. Review Board; now obsolete

~~"Vessel declaration" means declaration of a vessel as a commercial fishing vessel with the Department as required herein.~~

Commented [DP(11): As written, doesn't say much; reg is clear

~~"Vessel upgrade" means the acquisition by a licensed fisher of a vessel that is longer, of greater displacement, or increased horsepower relative to the vessel it is replacing.~~

Commented [DP(12): Duplicative with regs

Public Hearing
September 10, 2018

Summary of proposed substantive changes

Part 2 - Commercial and Recreational Saltwater Fishing Licensing Regulations

1. Section 2.7.1(D)(1); p. 6; Restricted Finfish Endorsement:

- **Option 1/Status quo:** Maintain 1:1 exit:entry ratio for the Restricted Finfish Endorsement.
- **Option 2/IAC proposal:** Modify exit:entry ratio for the Restricted Finfish Endorsement from 1:1 to 1:2.

Rationale: In 2018, fifteen (15) licenses eligible to harvest restricted finfish were not renewed (9 multipurpose, 6 Principal Effort w/RFF endorsement). Maintaining the 1:1 exit to entry ratio would therefore result in fifteen **(15)** new PEL w/restricted finfish endorsements being issued in 2019; with a 1:2 ratio resulting in thirty **(30)** new licenses issued.

The argument for increasing the number of available licenses entering the restricted finfish fishery stems from concerns about the increase in average age of the current license holders (~ 60 yrs) and the lack of new fishers entering the industry. There is concern amongst some fishers that the industry, particularly smaller vessel operations that frequent Narragansett Bay and coastal inshore waters, could disappear if new and younger fishers aren't entering into the industry to replace those leaving due to retirement or illness. Conversely, the argument for not increasing effort stems from concerns regarding the current lack of available resource/quota in the restricted fisheries to support existing commercial fishing businesses. Generally speaking, the goal for quota managed species is to maintain open seasons at commercial viable possession limits. If seasons become too short and/or possession limits become too low, the commercial viability of current operations changes. Established seasons for targeted quota species such as summer flounder, black sea bass, striped bass, and tautog rarely remain open for the entirety of the season due to the level of participation (i.e., number of active fishers and size of operations). Any increase in effort (e.g., increase in number of participants) has the potential to further reduce seasons and daily possession limits.

It is difficult to predict the exact effects that a ratio change will have on a given fishery. This is compounded by the fact that the restricted category encompasses several different fisheries. Empirical information on new entry levels around 15 licenses have not dramatically impacted catch rates across fisheries in recent history. An increase in new licenses beyond this has not been experienced since the advent of the current licensing program, and it is therefore difficult to predict what this level of new licenses will do to the restricted fisheries. It can be assumed that some increase in fishing activity will result, as these new entrants are likely to actively fish their license, while the licenses that have been retired rarely have high levels of activity associated with them. However, it is impossible to know the size of operations of any new licensees, as licenses are issued through a priority sequence and then a lottery process. It is also impossible to know if licensees will increase their operations (e.g., larger vessel, increased daily harvest) over time given their new access to this fishery.

The costs and benefits of increasing licenses by a significant amount are difficult to quantify. They may provide some benefit by increasing the probability that a new fisherman will get an opportunity to run a fishing business in the state, but an uncertainty exists in that there is no guarantee that the new licenses will go to new and/or younger fishermen. Additionally, the costs by way of impacts to existing fishing businesses through decreased seasons and possession limits is unknown. These sources of uncertainty should be considered when developing public comments on this issue.

2. Section 2.7.2(A); p. 7: Division proposal to add a due date of “30 days prior to any public hearing on commercial licensing” regarding the public availability of the updated Sector Mgmt. Plan (combined with item 3).

Rationale: This proposal is combined with the proposed deletion of 2.7.4(B) described below in item 3. The purpose of a date is for the need of the availability of draft plans to the public/IAC in a timely manner prior to the public hearing on commercial licensing held annually in September.

3. Former section 2.7.4(B); p. 9: Division proposal to remove language regarding the content and due date for the issuance of an annual report to the General Assembly on the conservation and management of marine fisheries resources (i.e., Sector Management Plans) (combined with item 2).

Rationale: It is not necessary that the rules address issuance of an annual report to the General Assembly. It is probable that this date was adopted to assure that the Sector Mgmt. Plan is made publicly available in a timely manner, prior to the annual hearing on commercial licensing, which is addressed in item 2 above.

4. Former section 2.7.6(A)(2); p. 10: Division proposal to remove language regarding the requirement that the Department provide a list of reporting requirements at the time of license issuance or renewal to applicants for commercial fishing or dealer licenses or landing permits.

Rationale: This procedure is not currently implemented and is felt to be unnecessary. Any changes to the reporting requirements are done through the public hearing process. Applicants are notified in writing per rule of any reporting deficiencies prior to the end of the application period per current rule.

5. Former section 2.7.6(A)(4); p. 10: Division proposal to remove language regarding the requirement that the Department notify license holders of a reporting deficiency via certified mail.

Rationale: This procedure is not currently implemented and is felt to be unnecessary. Licensees receive the following mailings:

- November 1: By November 1 annually, per statute [RIGL 20-2.1-4\(g\)](#), regular mailing from Office of Licensing regarding expiration of license on 12/31 and need for renewal. Specifies:
 - The 2/28 renewal deadline;
 - The grace period and fee if 2/28 deadline missed;

- That data reporting must be up to date as a condition of license renewal. Provides contact to Marine Fisheries office and describes reporting options.
 - End of November: Mailing from Division of Marine Fisheries to all license holders (1,000 +) deficient in reporting, per regulation 2.7.6(A)(4).
 - Mid-December: Renewal applications mailed from Office of Licensing to all license holders. Not required per regulation or statute.
 - Mid-March: Mailing from Office of Licensing to all current license holders who have not renewed (100 +) notifying of grace period. Not required per regulation or statute. Phone calls attempted to each license holder in addition to mailing.
6. Section 2.7.4(C); p. 11: Division proposal to broaden the applicability regarding the timeframe for when fishing trips must be documented. Proposal is to re-locate language from the “*Paper Catch and Effort Harvester Logbook*” section to “*Data Reporting*” section.

Rationale: Trip/data reporting is required for all license holders; this language therefore belongs in the Data Reporting section so as to apply to all license holders.

7. Section 2.7.4(C); p. 11: Division proposal to change the timeframe that fishing trips must be documented.
- Option #1: Modify language from “~~before the start of the next trip~~” to “prior to landing”;
 - Option #2: Modify language from “~~before the start of the next trip~~” to “within three (3) hours of landing”.

Rationale: Requirement that trips be documented “*prior to landing*” is consistent with federal rules. Option #2 is also offered for consideration as a possible compromise between current language and the option 1 language.

“*Land*” or “*landing*” means to offload marine species harvested within or outside of Rhode Island waters for sale or intended sale, or to secure a vessel with marine species on board to a shoreside facility where the marine species may be offloaded for sale or intended sale (R.I. Gen. Laws § 20-1-3).

8. Section 2.7.4(E); p. 11: Division proposal to add reporting due dates.

Rationale: The reporting due dates are currently only provided on the Paper Logbook instructions and not in regulation. Such due dates need to be included in regulation to be known and to be enforceable.

9. Former section 2.7.6(B)(2); p. 12: Division proposal to remove the requirement that license holders will be notified in writing as to the form of reports, their content, and the manner in which and frequency with which they are required to be transmitted by December 1 for the following year.

Rationale: License holders are only notified annually of reporting deficiencies and new license opportunities. Any changes to reporting requirements are done through hearing and are publicly noticed.

10. Section 2.7.5(E)(3); p. 19: Division proposal to amend the date pertaining to the issuance of licenses following the application deadline. Proposal is to change from fifteen days to ninety days:

Rationale: The 15-day timeframe is not currently being met and is unrealistic to meet due to volume of applications received, combined with the timing of the application deadlines and lottery process. The 90-day timeframe provides the Department with a more realistic timeframe to process applications and issue the license.

11. Section 2.7.5(H); p. 27: Proposed change/clarification of procedure regarding the appeal of a license denial due to medical hardship.

Rationale:

- As written, language does not accurately describe this process. Proposed changes meant to reflect actual process.
- Deletion of language referencing the “Commercial Licensing Review Board”, which has not met in several years, and was statutorily eliminated 2016.
- Proposal is to sync regs up with statute, and to clarify the appeal process.
- Applications not meeting criteria have always been denied by the Office of Boating Registration and Licensing; no change is proposed.
- Current language indicates that appeals are submitted to the Board c/o the OBRL; however, appeals go directly to AAD, not DEM.
- Final decisions are made by AAD, not DEM.
- Remove AAD requirements from the rule.
- Applicant must still submit appeal to AAD; AAD statute specifies that appeal must be rec’d w/i 30 days of receipt of denial (rule currently specifies 10 days).
- Note: Information required for an appeal is from AAD. This required information is listed in the denial letters sent by OBRL.

12. Proposed new section 2.9.2; p. 47: Proposed addition of reporting requirements for Party/Charter vessels.

Rationale: Proposal brought to hearing as directed by the Council.

Public Hearing
September 10, 2018

Proposed/annotated amendments

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

250-RICR-90-00-2

TITLE 250 - DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 90 - MARINE FISHERIES

SUBCHAPTER 00 - N/A

PART 2 - Commercial and Recreational Saltwater Fishing Licensing Regulations

Table of Contents

2.1	Purpose	3
2.2	Authority	3
2.3	Application	3
2.4	Severability	3
2.5	Superseded Rules and Regulations	3
2.6	Definitions	3
2.7	General Management and Licensing Regulations	3
2.7.1	Management Controls	3
2.7.2	Management Plans	7
2.7.3	Emergencies	8
2.7.4	Annual Report	9
2.7.5	Use of License, Landing Permit and Vessel Declaration Fees	9
2.7. 64	Data Reporting	10
2.7. 75	Licensing	10

2.7.86 Licenses, Endorsements and Vessel Declarations; Resident:	27
2.7.97 Licenses, Endorsements and Vessel Declarations; Non-Resident:	35
2.7.408 Landing Permits:	37
2.7.449 Dealer's Licenses:	40
2.7.4210.....Penalties:	
41	
2.8 Availability of New Licenses and Endorsements Annually.....	43
2.8.1 Multi Purpose Licenses:.....	43
2.8.2 Principal Effort Licenses:	43
2.8.3 Commercial Fishing Licenses:	43
2.8.4 Student and 65 and Over Shellfish Licenses:	43
2.8.5 Fish Trap Endorsements:.....	43
2.8.6 Gill Net Endorsements:	44
2.8.7 Purse Seine Endorsements and Mid Water/Pair Trawl Endorsements:	44
2.8.8 Whelk Endorsements:.....	44
2.9 Harvest and Gear Levels.....	44
2.9.1 Full Harvest and Gear Levels:	44
2.9.2 Basic Gear and Harvest Levels:.....	44
2.408 Recreational Saltwater Fishing Licenses.....	45
2.408.1 General Provisions:.....	45
2.408.2 Exemptions:	46
2.449 Vessel-Based Regulations	46
2.449.1 Vessels Fishing Recreationally:	46
2.449.2 Party/Charter Vessels:	Error! Bookmark not defined.
2.449.3 Vessels Fishing Commercially:	46
2.449.4 Vessels Fishing in More Than One Mode:	48

2.1 Purpose

The purpose of these regulations is to establish a process for managing marine fisheries, through the development of management plans and programs, licensing protocols, and data collection systems.

2.2 Authority

These Rules and Regulations are promulgated pursuant to R.I. Gen. Laws Chapters 42-17.1, 20-2.1, and 20-2.2, R.I. Gen. Laws § 20-1-4 and in accordance with R.I. Gen. Laws Chapter 42-35.

2.3 Application

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

2.4 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.

2.5 Superseded Rules and Regulations

On the effective date of this Part, all previous Rules and Regulations, and any policies regarding the administration and enforcement of the R.I. Gen. Laws Chapters 20-2 ("Licensing"), 20-2.1 ("Commercial Fishing Licenses"), and 20-3.1 ("Marine Fisheries Management Modernization"), shall be superseded, provided that regulations promulgated by the Director or the Rhode Island Marine Fisheries Council pursuant to R.I. Gen. Laws Chapter 20-3 ("Marine Fisheries Council"), will remain in effect until amended or replaced. Provided, furthermore, that 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 was filed.

2.6 Definitions

See Marine Fisheries Definitions, Part 1 of this Subchapter.

2.7 General Management and Licensing Regulations

2.7.1 Management Controls

A. Fishery Endorsements:

1. Fishery endorsement categories shall include:
 - a. Lobster;
 - b. Non-Lobster Crustacean: all crustacean species, as well as horseshoe crabs, available for commercial harvest, except lobster;
 - c. Quahaug;
 - d. Soft-shell Clam;
 - e. Shellfish Other: all shellfish species available for commercial harvest, except quahaug and soft-shell clams;
 - f. Restricted Finfish: scup (only from May 1 through October 31; scup shall be considered Non-Restricted January 1 through April 30, and November 1 through December 31), summer flounder, tautog, striped bass, and black sea bass;
 - g. Non-Restricted Finfish: all species of finfish and squid available for commercial harvest except the five species specified in the restricted finfish endorsement category; and
 - h. Whelk: all whelk species available for commercial harvest.
2. ~~By rule, the~~ The Department may add, eliminate, or modify fishery endorsement categories; in doing so, the Department will consider the status of each fishery, levels of participation by existing license holders, and ~~the provisions of applicable~~ fisheries management plans and programs.

~~B. Harvest and Gear Levels~~

- ~~1. The Full Harvest and Gear Level will apply to holders of Principal Effort Licenses for the fisheries for which they hold endorsements; and to holders of Multi-Purpose Licenses for all species.~~
- ~~2. The Basic Harvest and Gear Level will apply to holders of Commercial Fishing Licenses for the fisheries for which they hold endorsements; and to holders of Student Shellfish and 65 and Over Shellfish Licenses.~~
- ~~3. By rule, the Department shall set, and may periodically adjust, Full and Basic Harvest and Gear Levels on a fishery or endorsement specific basis, consistent with state and/or federally sanctioned fisheries management plans or programs.~~

Commented [DP1]: Obsolete

~~G. Regulation of Gear~~

~~D. Times and Seasons~~

~~E. Area Closures and Restrictions~~

~~F. Quotas~~

~~G. Catch and Landings Limits~~

HB. Limits on Entry

1. ~~By rule, the Department may limit entry into a fishery by license type or endorsement category, where a state and/or federally sanctioned fisheries management plan finds that fishing effort is at or exceeds sustainable levels.~~
2. ~~By rule, t~~The Department may establish entrance/exit ratios, lotteries, waiting lists, or other allocation measures as a means for limiting entry pursuant to § 2.7.1(H)(1) of this Part **consistent with fisheries management plans.**
3. ~~Any/all limits on entry for each license type and/or endorsement shall be annually prescribed herein in § 2.9 of this Part.~~

Commented [DP(2): Director authority per 20-2.1-2 and 2.1-9. Not needed for regulation

Commented [DP(3): Do not need to cite

Commented [DP(4): Essentially duplicate with section 2.7.1(K) below

IC. Control Dates

1. ~~By rule, t~~The Department may establish control dates, which shall serve as cut-off dates for potential use in establishing eligibility criteria for future access to a fishery.
2. Eligibility criteria may include, but are not limited to, historic participation and/or gear levels as documented by transaction records and official state or federal logbooks.
3. The establishment of a control date is intended to promote awareness of the potential establishment of eligibility criteria for future access to a fishery and to discourage speculative shifting of effort into that fishery. To this end, the Department may give various weighted considerations to those active in the fishery before and after the control date.
4. Establishing a control date does not commit the Department to any particular management regime or criteria for limiting future access to a fishery; however, once enacted, control dates may only be used to limit future access to a fishery in accordance with a **state** fisheries management plan.

5. Control dates may only be established prospectively, unless a retroactive control date is expressly required by federal law, regulation or court decision.
6. A control date of December 31, 2007 is established for the soft-shell clam fishery in Rhode Island.
7. A control date of December 31, 2007 is established for the purse seine and mid-water/pair trawl fisheries in Rhode Island.

JD. Exit/Entry Ratios:

Hearing item 1; Restricted Finfish Endorsement (section 2.7.1(D)(1)):

OPTION 1/Status quo: Maintain 1:1 exit:entry ratio

1. Restricted finfish – For every one (1) license, eligible to harvest restricted finfish, namely, Multi-Purpose Licenses and Principal Effort Licenses with a restricted finfish endorsement, that are not renewed, one (1) new Principal Effort License with restricted finfish endorsement will be made available; provided, that if the application of the exit/entry ratio yields a value less than a multiple of three (3) endorsements, the number of endorsements will be rounded up to yield a multiple of three (3) endorsements.

OPTION 2/IAC Proposal: Modify exit:entry ratio from 1:1 to 2:1

1. Restricted finfish – For every one (1) license, eligible to harvest restricted finfish, namely, Multi-Purpose Licenses and Principal Effort Licenses with a restricted finfish endorsement, that are not renewed, ~~one (1)~~ **two (2)** new Principal Effort License with restricted finfish endorsement will be made available; provided, that if the application of the exit/entry ratio yields a value less than a multiple of three (3) endorsements, the number of endorsements will be rounded up to yield a multiple of three (3) endorsements.
2. Quahaug - For every one (1) license eligible to harvest quahaug, namely, Multi-Purpose Licenses and Principal Effort Licenses with a quahaug endorsement, that are not renewed, one (1) new Commercial Fishing License with quahaug endorsement will be made available; provided, that if the application of the exit/entry ratio yields one (1) or two (2) licenses/endorsements, three licenses/endorsements will be made available.
3. Soft Shell Clam – For every five (5) licenses, eligible to harvest soft shell clam, namely, Multi-Purpose Licenses, Principal Effort Licenses with a soft shell clam endorsement, and Commercial Fishing Licenses with a soft shell clam endorsement, that are not renewed, one (1) new Commercial Fishing License with soft shell clam endorsement will be made available;

provided, that if the application of the exit/entry ratio yields one or two (2) licenses/ endorsements, three licenses/endorsements will be made available.

~~KE.~~ Annual Promulgation of Rules:

Availability of new licenses and endorsements, harvest and gear levels, regulations affecting gear, times and seasons, area closures and restrictions, quotas and catch or landings limits, limits on entry, control dates and data reporting shall be established by rule as hereinafter described on an annual basis, no later than December 1 for the following year, provided that said regulations may run for longer periods where management conditions permit, or may be adjusted more frequently where such conditions require.

Hearing item 2 (section 2.7.2(A)): Division proposal to add a due date for the public availability of the updated Sector Mgmt. Plan (combined with item 3):

2.7.2 Management Plans

A. ~~Required:~~ The management controls set forth in ~~§ 2.7.1 of this Part must be based on~~ **these regulations shall be consistent with** fisheries management plans ~~that have been~~ adopted by the Department **pursuant to R.I. Gen. Laws § 20-2.1-9(5)** 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.~~ **Such plans shall be updated annually, with draft plans made available for public review a minimum of thirty (30) days prior to any public hearing that addresses commercial licensing.**

B. The management controls set forth in these regulations shall also be consistent with fisheries management plans adopted by a federal agency or regional body of competent jurisdiction.

~~B. Purpose and Content:~~

- ~~1. The central objectives of all fishery management plans shall be~~
 - ~~a. To prevent overfishing, while achieving on a continuous basis the maximum sustainable yield from each fishery; and~~
 - ~~b. To restore overfished or depleted stocks to sustainable levels.~~
- ~~2. Management plans shall be responsive to, and reflective of, changing stock and fishery conditions, and thereby support an adaptive management process.~~
- ~~3. Management plans shall seek to achieve the objectives set forth in § 2.7.2(B)(1) of this Part by establishing management measures that may~~

Commented [DP(5): Combined with deletion of "Annual Reports" section below, which addresses submittal of the plan/report to the GA. Regs do not need to address submittal of the report to the GA, However, it is important that a timeframe be specified for the availability of the plans to the public prior to the annual hearing on commercial licensing.

~~include a mix of input and output controls, such as limitations or restrictions on effort, gear, catch, areas, times, and/or seasons.~~

- ~~4. Management plans shall specifically address, and make annual determinations on, the number and availability of licenses and endorsements, and the harvest and gear levels associated therewith. Such determinations shall be made in accordance with the objectives set forth in § 2.7.2(B)(1) of this Part, and with due regard to:
 - ~~a. The social and economic well-being of fishers and fishing-dependent communities, particularly the interests of licensed residents who wish to continue fishing commercially in a manner that is economically viable; and~~
 - ~~b. The interests of residents who wish to fish commercially.~~~~
- ~~5. 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 Oceanic and Atmospheric Administration (NOAA) Fisheries.~~
- ~~6. Management plans shall be based on the best scientific information available.~~
- ~~7. Management plans shall consider the effectiveness of management measures in reducing by-catch, by-catch mortality, and discards.~~
- ~~8. Management plans shall complement federal and regional management plans and programs and the reciprocal arrangements with other states.~~
- ~~9. Management plans shall be consistent with the national standards for fishery conservation and management set forth in the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. § 1851 (2017) and further delineated in R.I. Gen. Laws § 20-2.1-9(2)(iv).~~
- ~~10. Management plans may take into consideration other factors that the Director deems appropriate.~~

2.7.3 Emergencies

The Director may promulgate marine fisheries management rules with less than ~~sixty (60)~~ **thirty (30)** days' notice to RIMFC if and to the extent necessary to comply with federal or regional requirements or to respond to sudden and/or imminent peril or unanticipated developments where delay would likely cause immediate harm to fishery resources or fishers pursuant to R.I. Gen. Laws § 42-35-~~3~~ **2.10**.

Commented [DP(6)]: Contents of plans articulated in 20-2.1-9(5). Not needed for regulation

Commented [DP(7)]: Statutorily changed from 60 to 30 days in 2016

Hearing item 3 (section 2.7.4(B)); Division proposal to remove the content and due date for the issuance of an annual report to the General Assembly on the conservation and management of marine fisheries resources (i.e., Sector Management Plans) (combined with item 2):

2.7.4 Annual Report

- A. ~~Content: The Director shall prepare an annual report on the conservation and management of marine fisheries resources for the General Assembly and the citizens of the State. The report will address particularly the status of fish stocks that are considered to be overfished or were so in the preceding year, the status of fisheries management plans and programs, levels of participation by existing license holders, and the availability of new licenses and endorsements. The report will also summarize available data on the value of commercial fishing in the State, and the socio-economic status of the State's fisheries.~~
- B. ~~Due Date: The annual report on marine fisheries resources shall be issued no later than September 15 for the calendar year preceding.~~

Commented [DP(8): This report is the Mgmt. Plans discussed in 2.7.2. There is no separate report. This reg addresses submittal to the GA, which is not necessary to state in the regulations.

2.7.5 Use of License, Landing Permit and Vessel Declaration Fees

A. ~~Annual Spending Plan:~~

- ~~1. License and vessel declaration fees must be used by the Department in accordance with an annual spending plan adopted with the advice of RIMFC.~~
- ~~2. The Department will submit its annual spending plan to RIMFC no later than September 1 for the following fiscal year.~~

B. ~~Activities Eligible for Funding: License, landing permit and vessel declaration fees are to be used by the Department for the following specific purposes:~~

- ~~1. Protection and propagation of marine fish, lobsters and shellfish;~~
- ~~2. Enforcement of fisheries management regulations;~~
- ~~3. Shellfish transplants;~~
- ~~4. Enhancement of shellfish resources through other technologies including seeding;~~
- ~~5. Fishing port development and construction;~~
- ~~6. Staff support to and expenses incurred by RIMFC;~~
- ~~7. Lease or purchase of land or conservation easements; and~~

~~8. Technical support to and expenses incurred by the Department for purposes of managing fisheries resources generally and for the collection, processing, analysis and maintenance of data employed in support of such management.~~

~~C. Special Projects:~~

~~Beginning on July 1, 2003, a minimum of two hundred thousand dollars (\$200,000) of license and vessel declaration fees shall be targeted annually to fund fishery conservation and restoration projects and/or fishery resource enhancement activities.~~

Commented [DP(9)]: Addressed in RIGL 20-2-28.2 and 20-2.1-10. Not needed for regulation

2.7.6.2.7.4 Data Reporting for Commercial Fishing Licenses

A. Required:

4. The holder of any type of commercial fishing license, dealer license, or landing permit shall be deemed to have consented to providing such fishery-related information as the Department may require, including but not limited to, catch, effort, and areas fished **consistent with R.I. Gen. Laws § 20-4-5. Reporting shall be required on forms or in a format as prescribed by the Director.**

Hearing item 4 (former section 2.7.6(A)(2)): Division proposal to remove the requirement that the Department provide a list of reporting requirements at the time of license issuance or renewal to applicants for commercial fishing or dealer licenses or landing permits.

~~2. Applicants for commercial fishing or dealer licenses or landing permits will be provided a list of applicable reporting requirements at the time of license issuance or renewal.~~

Commented [DP(10)]: This rule has never been implemented. Such list provided "at the time of license issuance" is not necessary; licensees are notified of reporting deficiencies

~~3. The Department may amend reporting requirements, no later than December 1 for the following calendar year.~~

Commented [DP(11)]: Essentially duplicate with 2.7.1(K), which is broader in scope

Hearing item 5 (former section 2.7.6(A)(4)): Division proposal to remove the requirement that the Department notify license holders of a reporting deficiency via certified mail.

~~4. The license or permit of any individual who fails to report required information in a timely fashion or who files a false report shall be subject to suspension or revocation. No application for a license renewal will be accepted from a person who has failed to submit reports in a timely fashion and who has been previously notified, via certified mail, regarding the deficiency and the inability to renew if the required reports are not filed by the license application deadline.~~

Commented [DP(12)]: Duplicate with 2.7.12(A)(1)

Commented [DP(13)]: Moved to Eligibility below. Proposing to remove certified mail requirement, which is not currently being implemented

B. Licensed fishers and dealers may be required to file data reports at the point of sale, and fishers may also be required to maintain logs while fishing.

Commented [DP(14)]: Not new, re-located only, no change to applicability

Hearing item 6 (section 2.7.4(C)); Division proposal to re-locate language regarding the timeframe for when fishing trips must be documented from the "Paper Catch and Effort Harvester Logbook" section to "Data Reporting" section.

Commented [DP(15)]: Not accurate where language is currently located as could be read as applicable only to licensees holding a Paper Catch and Effort Harvester Logbook. Re-located here to broaden applicability to all license holders

Hearing item 7 (section 2.7.4(C)); Division proposal to change the requirement regarding the due dates that fishing trips must be documented:

OPTION 1:

C. Trips must be documented prior to landing.

OPTION 2:

C. Trips must be documented within three (3) hours of landing.

D. Accurately completed copies of the federal Vessel Trip Reports or state reporting forms shall be kept in numerical order on board the vessel dating back to January 1st of the current year 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 1st of the current year entered electronically.

Commented [DP(16)]: Not new; re-located from Part 1 so is addressed in a single location

Hearing item 8 (section 2.7.4(E)); Division proposal to add reporting due dates:

E. Due dates for the submittal of reports:

1. For fishing activity occurring in the months of January, February, and March: April 15.

2. For fishing activity occurring in the months of April, May, and June: July 15.

3. For fishing activity occurring in the months of July, August, and September: October 15.

4. For fishing activity occurring in the months of October, November, and December: January 15.

5. To renew prior to January 15, harvester reports must be submitted for all of December if renewing in January and up to date in December if renewing in December.

Commented [DP(17)]: These dates currently only located in Logbook instructions; is regulation

B. Manner of Reporting:

~~1. Fishers and dealers may be required to file data reports at the point of sale, and fishers may also be required to maintain logs while fishing.~~

Commented [DP(18)]: Not deleted; re-located above

Hearing item 9 (former section 2.7.6(B)(2): *Division proposal to remove the requirement that license holders will be notified in writing as to the form of such reports, their content, and the manner in which and frequency with which they are required to be transmitted by December 1 for the following year:*

~~2. License holders will be informed in writing as to the form of such reports, their content, and the manner in which and frequency with which they are required to be transmitted by December 1 for the following year.~~

Commented [DP(19)]: This has never been implemented. License holders are notified in writing annually by Dec. 1 of new license opportunities by Dec. 1 per 2.7.1(E), and also are notified in writing of any reporting deficiencies. Any changes to reporting requirements done via public hearing.

CF. Collection and Use of Data:

1. Data will be collected, managed and disseminated according to the coastwide minimum protocols of the Atlantic Coastal Cooperative Statistics Program (ACCSP).
2. Reported data may be used for management purposes by any properly designated State or federal agency. Reported data may only be used for enforcement purposes by a properly designated state or federal agency if specifically authorized by rule.
3. Any data that are released or reported to the public shall be aggregated so as to not identify individual fishers, vessels or dealers.

2.7.7.2.7.5 Commercial Licensing

A. **Information Application** required: ~~Applicants~~ **Applications** for any license or permit issued under these regulations shall ~~provide a notarized statement~~ containing the following information:

1. Full name;
2. Age;
3. Occupation;
4. Residence address;
5. Mailing address;
6. Weight;
7. Height;
8. Hair color;
9. Eye color;

10. The name of any state or jurisdiction in which the applicant's commercial fishing license and/or permit is currently revoked or suspended; and
11. Driver's License number and state of issuance, or other state-issued photo identification card.

12. Applications must be notarized.

13. Reporting method: Paper Catch and Effort Harvester logbook; or, federal Vessel Trip Report (VTR), or e-TRIPS. The Paper Catch and Effort Harvester logbook and e-TRIPS reporting methods cannot be declared together.

Commented [DP(20)]: Not new; re-located from 2.7.7(K)(3)

B. Other Requirements:

1. A license or permit must be signed and sworn to by the party to whom it is issued in order to be valid.
2. Licenses and permits are valid only for the signed holder and may not be transferred.
3. All fees must have been paid for a license or permit to be valid.
4. A lost or accidentally destroyed license or permit will be replaced for a fee of ten dollars (\$10.00), provided that the applicant submits an affidavit to the Department explaining the circumstances of the loss.
5. A lost or accidentally destroyed Certificate of Exemption or permit issued by the Department for harvest of commercial or recreational marine species shall also be replaced for a fee of ten dollars (\$10.00), provided that the applicant submits an affidavit to the Department explaining the circumstances of the loss, and provided that the holder notifies the Department within seven (7) days of discovery of the loss.

~~6. No application for a license renewal shall be accepted from a person whose data reports have not been submitted.~~

Commented [DP(21)]: Duplicate; covered in section 2.7.6

~~7.6.~~ Notice of change of address. Whenever any person holding any commercial fishing license shall move from the address named in his or her last application, that person shall, within ten (10) days subsequent to moving, notify the Office of Boat Registration and Licenses of his or her former and current address.

7. Expiration. Unless otherwise specified in this title, all licenses issued under this chapter shall be annual and shall expire on December 31 annually. It shall be unlawful for any person to fish commercially in Rhode Island waters on an expired license application. The grace

period set forth in § 2.7.5(C)(5) of this Part shall not extend the validity of any expired license.

Commented [DP(22)]: Not new; re-located from Penalties section. Want this known early on

C. Application Deadlines:

1. The Department will notify all license and permit holders in writing by November 1 that said license or permit, as well as all vessel declarations, expire on December 31 of that year. The Department will also notify all holders of 65 and Over Shellfish, Commercial Fishing, Principal Effort, and Multi-Purpose Licenses in writing by November 1 that said licenses, along with any and all applicable endorsements, must be renewed by February 28 of the following year in order to remain valid. Holders of a Student Shellfish license (if renewable) will be notified by November 1 and the license must be renewed by June 30 of the following year in order to remain valid.
2. All notices will be sent by regular mail to the mailing address given on the license or permit holders last license application or change of address form.
3. All applications for 65 and Over Shellfish, Commercial Fishing, Principal Effort, and Multi-Purpose Licenses, along with any and all applicable endorsements, whether renewals or new issues, must be made in person by 4:00 PM on February 28, or on the first business day following February 28 if that day falls on a Saturday or Sunday or holiday. Applications for a Student Shellfish license, whether renewal or new issue, must be made in person by 4:00 PM on June 30, or on the first business day following June 30 if that day falls on a Saturday, Sunday, or holiday. All license applications shall be made at the Department of Environmental Management, Office of Boat Registration and Licenses, 235 Promenade Street, Providence, 02908. Alternatively, applications must be posted to the same address with a postmark no later than the above-referenced deadline date. Alternatively, renewals must be made electronically, via the Department's online renewal service at <https://www.ri.gov/DEM/commercialmarine/>, by midnight on the above-referenced deadline date. In order to be eligible to apply for a license, an application must be received, postmarked, or electronically filed by the above-referenced deadline date.
4. No 65 and Over Shellfish, Commercial Fishing, Principal Effort or Multi-Purpose License or applicable endorsement will be issued or renewed after the close of business on February 28, or on the first day following February 28 if that day falls on a Saturday or Sunday or holiday, unless said license or endorsement was applied for consistent with the requirements of §§ ~~2.7.7~~ 2.7.5(C)(3) or (5) of this Part, or §§ ~~2.7.7(H)~~ 2.7.5(E)(3) or ~~(F)~~ of this Part. No student shellfish license will be issued or renewed after the close of business on February 28, or on the first day

following June 30 if that day falls on a Saturday or Sunday or holiday, unless said license or endorsement was applied for consistent with the requirements of §§ ~~2.7.7~~ 2.7.5(C)(3) or (5), or §§ ~~2.7.7(H)~~ 2.7.5(E)(3) or ~~(F)~~ of this Part.

5. With the exception of Student shellfish license applications, applications for renewal of licenses referenced in §§ ~~2.7.7~~ 2.7.5 (C)(3) and (4) of this Part above that are received by the Department or postmarked after February 28 or after the first day following February 28 if that day falls on a Saturday or Sunday or holiday shall be renewed only upon payment of a late fee in the amount of \$200.00 and only during the sixty (60) day grace period commencing on the day immediately following the application deadline. Such renewal applications must be made in person at the Department of Environmental Management, Office of Boating Registration and Licenses, 235 Promenade Street, Providence, RI 02908; or via mail at the same address; or electronically via the Department's online renewal service at www.ri.gov/DEM/commercialmarine.

~~6. No license or permit will be renewed unless the data reporting requirements of § 2.7.6 of this Part have been met.~~

Commented [DP(23)]: Not deleted; re-located below in renewal applicability. Not related to an application deadline

KD. Demonstration and Verification of **Activity Actively Fishing and Actively Participating Standards for the Issuance of New Licenses:**

1. **Actively Fishing:**

- a. To meet the standard of Actively Fishing, ~~an applicant~~ **the license holder must be able to have held the license for a minimum of the immediate two (2) preceding calendar years, and demonstrate by dated transaction records, and for multiple-day trips, Vessel Trip Reports as verified by SAFIS dealer or dockside sales reporting, that he or she has fished at least a minimum of forty (40) days legal RI landings** in the preceding 2 calendar years, pursuant to a valid RI license. ~~Such fishing activity must have spanned the 2-calendar years, meaning that some activity occurred in each of the 2 years. Such fishing activity may need to be in the same fishery sector(s) or endorsement category(s) for which a new license/endorsement is being sought, as specified in §§ 2.7.7(D), (F), (G), (H), and (I) of this Part.~~

Commented [DP(24)]: This language is eligibility; discussed below, duplicate

(1) In cases where there are less than forty (40) legal RI landings, and one or more of those landings is associated with a multi-day trip(s), Vessel Trip Reports and days fished from those trip(s) may be used to meet the standard of Actively Fishing.

(2) In cases where dockside sales reports are being used to meet the standard of Actively Fishing, additional documentation may be required, including, but not limited to, the following: receipts pertaining to the sales of lobsters and/or crabs to consumers; income tax returns; trap tag orders; and receipts pertaining to purchases of fuel, bait, and other supplies.

Commented [DP(25): No change to any applicability proposed. Looking only to clarify current requirements. Combined with deletion of definitions of "Actively Fishing" and "Actively Participating"

8-(3) In cases where a person holds both a Landing Permit and a Commercial Fishing License concurrently issued by the Department, dated T transaction records established in SAFIS which are recorded on an ~~applicant's~~ **license holder's** Landing Permit may be considered for the **demonstration or** verification of **the** Activity Standards provided that the applicant also possesses a Commercial Fishing License, Principal Effort License, or Multipurpose Fishing License which was valid at the time of the activity being considered.

b. For the issuance of a license in accordance with section 2.7.5(E) of this Part, the Activity Standard established in section 2.7.5(D)(1)(a) of this Part must be met, in addition to one of the following conditional criteria, as applicable:

(1) Issuance of a new license upon sale of vessel and/or gear: Landings must have occurred in the previous two (2) calendar years, with landings occurring in one (1) or both of those calendar years.

(2) Issuance of a new license under a medical hardship condition: Landings must have occurred in at least two (2) consecutive calendar years from 2006 to the date of the license holder's hardship.

(3) Issuance of a new license based on previous license activity: This section applies only to a Commercial Fishing License Quahaug endorsement, Student Shellfish license, and Over 65 Shellfish licenses. Persons are not eligible if cited for a violation of Rhode Island's marine fisheries laws or regulations during the two-year period preceding the date of application.

(aa) Persons who possess a valid Student Shellfish or Over 65 Shellfish License as of the immediately preceding year are eligible to obtain a new

Commercial Fishing License with a Quahaug endorsement for the immediate following year.

(bb) Persons who possess a valid Commercial Fishing License with Quahaug endorsement as of the immediate preceding year are eligible to obtain a new Principal Effort License with Quahaug endorsement for the immediate following year. For the purposes of this section, only quahaug landings may be used to meet the Activity Standard as specified in section 2.7.5(D)(1)(a) of this Part.

(4) Issuance of a new Whelk endorsement based on previous license activity: Persons who possess a valid Commercial Fishing or Principal Effort License with Quahaug or Soft-Shell Clam endorsement as of the immediately preceding year are eligible to obtain a new Whelk endorsement for the immediate following year. For the purposes of this section, only quahaug and/or soft-shell clam landings may be used to meet the Activity Standard as specified in section 2.7.5(D)(1)(a) of this Part.

2. Transaction records, and Vessel Trip Reports, if applicable, submitted in accordance with § 2.7.7(K)(1) of this Part, must correspond to fisheries in which the applicant is licensed to fish commercially. Such transaction records, and Vessel Trip Reports if applicable, shall be subject to verification by the Department in accordance with dealer reports submitted to the Department via the SAFIS reporting system.

32. **Actively Participating:** To meet the standard of Actively Participating, an applicant **a crew** must be able to demonstrate via one or more affidavits that they have worked as a paid crew **member** for one or more **licensed** captains **licensed in the state of Rhode Island on a vessel that was commercially declared during the period of activity**, for **at least a minimum of forty (40) days legal RI landings** in the **immediately preceding two (2) calendar years**. To be considered a paid crew **member**, ~~the crew member~~ **persons** must **have demonstrate a** valid record of being **a paid by the employee of the** vessel owner or person licensed to fish commercially, ~~such as~~ **including either** a W-2 form, 1099 form, ~~and/or~~ **paycheck stub from a financial institution for the period of time being used to meet the standard of Actively Participating.** ~~Such activity may need to be in the same fishery sector(s) or endorsement~~

Commented [DP(26): Again, nothing new being proposed. Only looking to re-locate to read better

Commented [DP(27): This section is eligibility; discussed below, duplicate

~~category(s) for which a new license/endorsement is being sought, as specified in §§ 2.7.7(F) and (G) of this Part.~~

Commented [DP(28): This section is eligibility; discussed below and in Priority section, duplicate

~~4. Affidavits submitted in accordance with § 2.7.7(K)(3) of this Part above must be on forms provided by the Department and must be notarized.~~

Commented [DP(29): By definition, affidavits must be on forms provided by the Dept. and must be notarized, so this is duplicate

~~5a.~~ Affidavits ~~submitted in accordance with § 2.7.7(K)(3) of this Part above~~ must reflect activity conducted upon a vessel that was commercially declared during the period of activity.

~~63.~~ A license holder with a dockside sales endorsement who sells all of his or her lobster and/or crab landings dockside may utilize documentation other than dated transaction records to ~~establish~~ **demonstrate** fishing activity. Such documentation shall include properly recorded and submitted logbooks, as well as some or all of the following: receipts pertaining to the sales of lobsters and/or crabs to consumers; income tax returns; trap tag orders; and receipts pertaining to purchases of fuel, bait, and other supplies. DEM shall determine whether the documentation submitted by the license holder substantiates the landings and associated fishing activity claimed by the license holder.

~~74.~~ Any ~~applicant~~ **application submitted seeking status** in accordance with this section ~~who submits~~ **that includes** inadequate or improper documentation, such as insufficient number or type of transaction records, invalid transaction records, Vessel Trip Reports, or affidavits that have not been notarized, will not be considered. ~~Any f~~**r**audulent submittals will be referred to the Department's Division of Law Enforcement for further investigation and possible enforcement action. Fraud on the part of any existing license holder, including a captain who signs an affidavit in support of a claim of crew member status that turns out to be false or inaccurate, may result in the suspension or revocation of the license held by the existing license holder **pursuant to section 2.7.10 of this Part.**

E. Issuance of New Licenses and ~~Endorsements; Generally~~ **Eligibility:**

~~1. The Department shall issue new licenses and endorsements in accordance with the provisions of duly adopted management plans. Said plans shall be reviewed and, if necessary, updated annually to reflect changes in:~~

~~a. Regional or federal management plans or programs;~~

~~b. Fish stocks and fisheries, and~~

~~c. Levels of participation by existing license holders. Said plans may or may not provide for the issuance of certain new licenses or~~

~~endorsements in any given year, depending on the status and economic condition of each fishery.~~

2. New licenses and endorsements shall be made available as of January 1 for that year pursuant to management plans and associated rules adopted no later than December 1 of the preceding year, subject to the provisions set forth herein, and as further delineated in §§ 2.8 and 2.9 of this Part for each license year **annually**.

Commented [DP(30): Statute that guides DEM; not needed for regulation

~~3. In cases where a limited number of new licenses or endorsements are to be issued, the Department shall give priority to applicants in the order prescribed by law and as further delineated in §§ 2.7.7(F) and (G) of this Part. All eligible applicants in each priority category will be issued licenses or endorsements before any licenses or endorsements are issued to applicants in the next lower priority category. If in any priority category there are more eligible applicants than there are licenses or endorsements available for issue, those licenses or endorsements will be issued by lottery, unless otherwise specified herein.~~

Commented [DP(31): Not deleted; re-located to Priority section below

Hearing item 10 (section 2.7.5(E)(3): Division proposal to amend the date that requires the Department to issue new licenses following the application deadline. Proposal is to change from fifteen days to ninety days:

43. In cases where a limited number of new licenses or endorsements are to be issued, the Department will accept applications until the application deadline set forth under § ~~2.7.7~~ **2.7.5** (C) of this Part, and then issue said licenses or endorsements to eligible applicants within ~~fifteen (15)~~ **ninety (90)** business days following the deadline date. To ensure fairness in these cases, no new licenses or endorsements will be issued before the application deadline date.

Commented [DP(32): Is not currently met and is not feasible due to volume of applications. Applications are processed as expeditiously as possible and mailed by May. 90 days can be met.

~~D. License Renewals, Transitions and Upgrades:~~

Commented [DP(33): Technically no such thing, license is surrendered with a new license issued

43. License renewals:

a. **No application for a license renewal will be accepted from a person who has failed to submit reports in a timely fashion and who has been previously notified regarding the deficiency.**

Commented [DP(34): Not new; re-located from Data Reporting section above as is an eligibility requirement for license renewals. Proposing to remove requirement of certified mail

b. Applicants **Persons** who possessed a valid Commercial Fishing License ~~with Lobster (resident only), Quahaug (resident only), Soft Shell Clam (resident only), and/or Whelk (resident only) endorsements~~ as of the immediately preceding year **may be eligible to obtain a renew their Commercial Fishing License with the same endorsement(s). Other fishery endorsements on Commercial Fishing Licenses—including Non-Lobster Crustacean (resident only), Shellfish Other (resident only), and Non-Restricted**

Commented [DP(35): Redundant. Eligibility

Commented [DP(36): Not necessary to specify different types of endorsements.

~~Finfish — may be renewed without restriction. Non-resident applicants must demonstrate that their state of residence complies with the reciprocity requirements set forth under § 2.7.9 of this Part.~~

Commented [DP(37)]: Redundant with 2.7.9

~~2c. Applicants **Persons** who possessed a valid Principal Effort License with Lobster (resident only), Quahaug (resident only), Soft-Shell Clam (resident only), Restricted Finfish, and/or Whelk (resident only) endorsements as of the immediately preceding year **may are eligible to obtain a renew their** Principal Effort License with the same endorsement(s) for the immediately following year. Other fishery endorsements on Principal Effort Licenses — including Non-Lobster Crustacean (resident only), Shellfish Other (resident only), and Non-Restricted Finfish — may be renewed without restriction. Non-resident applicants must demonstrate that their state of residence complies with the reciprocity requirements set forth under § 2.7.9 of this Part.~~

~~3d. Applicants **Residents** who possessed a valid Multi-Purpose License (resident only) as of the immediately preceding year **may are eligible to obtain a renew their** Multi-Purpose License for the immediately following year.~~

~~(1) a) Alternatively, applicants **residents** who possessed a valid Multi-Purpose License (resident only) as of the immediately prior year **may are eligible to** obtain a **new** Principal Effort License with Quahaug (resident only), Soft-Shell Clam (resident only), Shellfish Other (resident only), Lobster (resident only), Non-Lobster Crustacean (resident only), Restricted Finfish, Non-Restricted Finfish, and/or Whelk (resident only) endorsements for the immediately following year **in place of a Multi-Purpose License. Prior to issuance of a new license, the currently held license must be surrendered.**~~

~~e. **Residents who possess a valid Student Shellfish License as of the immediate preceding year are eligible to renew their Student Shellfish License pursuant to section 2.7.6(E) of this Part for the immediate following year.**~~

~~f. **Residents who possess a valid 65 and Over Shellfish License as of the immediate preceding year are eligible to renew a 65 and Over Shellfish License for the immediate following year.**~~

~~4. Applicants who possessed a valid Student Shellfish License (resident only) as of the immediately preceding year, and who have been actively fishing their license, may obtain a Commercial Fishing License with a Quahaug endorsement for the immediately following year. This provision only applies to applicants who have not been cited for a violation of Rhode~~

~~Island's marine fisheries laws or regulations during the two-year period preceding the date of application.~~

~~5. Applicants who possessed a valid 65 and Over Shellfish License (resident only) as of the immediately preceding year, and who have been actively fishing their license, may obtain a Commercial Fishing License with a Quahaug endorsement for the immediately following year. This provision only applies to applicants who have not been cited for a violation of Rhode Island's marine fisheries laws or regulations during the two-year period preceding the date of application.~~

~~6. Applicants who possessed a valid Commercial Fishing License with Quahaug (resident only) endorsement as of the immediately preceding year, and who have been actively fishing their endorsement, may obtain a Principal Effort License with the same endorsement for the immediately following year. This provision only applies to applicants who have not been cited for a violation of Rhode Island's marine fisheries laws or regulations during the two-year period preceding the date of application.~~

~~7. Applicants who possessed a valid Commercial Fishing or Principal Effort License with Quahog and/or Soft Shell Clam endorsement and have actively fished said endorsement as of the immediately preceding year may obtain a Whelk endorsement for the immediately following year.~~

~~8f. Applicants who obtained a Principal Effort License with Lobster endorsement in 2008, or any year thereafter, must continue to hold a Lobster Trap Allocation to be eligible for renewal.~~

~~9. Resident applicants who possessed a valid Landing Permit as of the immediately preceding year obtain a Landing Permit for the immediately following year for any fishery, pursuant to the eligibility requirements set forth in § 2.7.9 of this Part.~~

~~10. Non-resident applicants who possessed a valid Landing Permit as of the immediately preceding year may obtain a Landing Permit for the immediately following year for the fishery or fisheries for which they were permitted as of the immediately preceding year, provided that in the case of Restricted Finfish, such applicants must meet the qualifications set forth in § 2.7.10(C)(4) of this Part. In addition, any such applicant may also obtain new Landing Permits pursuant to the eligibility requirements set forth in § 2.7.10 of this Part.~~

~~12. The provisions of this section apply only to the license year beginning on January 1, and the issuance of licenses pursuant to this section is subject to the license application deadlines and other requirements set forth under §§ 2.7.7(A), (B), or (C) of this Part.~~

Commented [DP(38)]: Eligibility for new endorsements/endorsement "upgrades" re-located to section 2.7.5(D)(1) as directly related to activity standard

Commented [DP(39)]: Duplicative. Also in "Landing permits" section

Commented [DP(40)]: Application deadlines are clearly specified; nothing additional provided by keeping this

~~G4.~~ Issuance of New Licenses ~~and Endorsements; Automatic Eligibility~~ for Family Members or Crew ~~Members of Retirees~~:

- ~~4a.~~ ~~Anyone~~ **A family member or crew** who ~~is~~ qualified ~~ies~~ as a priority applicant pursuant to §§ ~~2.7.7(F)(1) or (2)~~ **2.7.5(G)(2) or (3)** of this Part ~~may automatically~~ **is eligible to** obtain a Commercial Fishing License with applicable endorsement(s), or a Principal Effort License with a Restricted Finfish Endorsement, if they are ~~the~~ **a** family member or crew ~~member~~ of a license holder ~~(any type)~~ who has been actively fishing, and ~~who chooses~~ **is** not to renew ~~ing~~ their license.
- ~~2b.~~ The applicable endorsement(s) will be in the fishery sector(s) that was/were being actively fished by the ~~retiring~~ **current** license holder. **Prior to issuance of a new license, the currently held license must be surrendered to the Department.**
- ~~3c.~~ One new license will be issued for each ~~one retired~~ **license surrendered.**

Commented [DP(41): License is not "retired"; license is surrendered with new license issued

~~H5.~~ Issuance of New Licenses upon Sale of Vessel and/or Gear:

- ~~4a.~~ ~~This section applies only to purchasers of vessels and/or gear who are residents.~~ **Residents are eligible to obtain a new license involving the sale of vessel and/or gear if the license holder is actively fishing.**
- ~~2b.~~ ~~Transfer or sale of licenses and endorsements between the purchaser and seller of a vessel and/or gear is prohibited; provided, however, that if the seller of a vessel and/or gear who is actively fishing his or her license shall have first surrendered it to the Department.~~ **Prior to issuance of a new license, the currently held license must be surrendered to the Department. Upon application for a new license,** the Department will ~~then, upon~~ **then,** upon application, issue ~~one~~ **a** new **equivalent** license to the purchaser of the vessel and/or gear, pursuant to the terms and conditions of this section.
- ~~3c.~~ ~~The new license/endorsement(s) issued to the purchaser by the Department will generally correspond to the license/endorsement(s) that was held by the seller. The Department may, however, issue the new license/endorsement(s)~~ **issued may be** at a lower harvest and gear level than the license surrendered ~~by the seller~~ where necessary to accomplish the purposes of ~~the applicable fisheries~~ **management plans** ~~s~~ **adopted pursuant to § 2.7.2 of this Part.**

Commented [DP(42): There is no "transfer"; license is surrendered with new license issued

Commented [DP(43): Duplicate with b. above

d. New licenses ~~issued~~ **applications made** pursuant to this section are not subject to ~~the~~ **an** application deadline ~~provisions set forth under § 2.7.7(C) of this Part.~~

4e. Any new license/endorsement(s) ~~issued to the purchaser by the Department pursuant to this section may only be issued to the new licensee upon payment to the Department of the statutorily established fee for the subject license or endorsement.~~ **New license fees shall be applicable at the time of application.**

~~5.~~ Solely for the purposes of this section, a license holder shall be deemed to meet the “actively fishing” standard, as set forth in § 2.7.7(K) of this Part, regardless of whether the fishing activity spanned the two calendar years or occurred in one of the two years.

Commented [DP(44)]: Not deleted; re-located above

6. Issuance of New Licenses to Resident Family Members in cases of Incapacity:

a. Resident family members are eligible to obtain a new equivalent license in cases of incapacity.

b. Demonstration of the incapacity shall be required in the form of a death certificate, or a diagnosis and prognosis signed by a medical doctor (M.D. or O.D.).

c. Prior to issuance of the new license, the currently held license must be surrendered to the Department. Upon application, the Department will then issue a new license equivalent to the license currently held.

d. The family member shall be designated by the license holder, or, if the license holder is deceased, by mutual agreement among surviving family members. If a mutual agreement has not been reached, the administrator or executor of the estate of the deceased license holder shall be eligible for a new equivalent license for not longer than two (2) years during the probating of the estate.

e. New license applications made pursuant to this section are not subject to an application deadline.

f. New license fees shall be applicable at the time of application.

Commented [DP(45)]: Not new. Have split from “Medical Hardship” section as they are distinctly separate processes

447. ~~Renewal of licenses and landing permits for individuals~~ **Persons** returning from active **military** service: ~~Anyone~~ **Persons** holding a valid license and/or landing permit ~~at the time he or she~~ **when** entering active **military** service ~~may have their~~ **are eligible to obtain a new equivalent** license

Commented [DP(46)]: Not a renewal. License has lapsed; a new license will be issued

and/or **landing** permit **held at the time when entering active service** renewed immediately upon returning from such service, upon presentation of written credible documentation, such as form DD214, demonstrating the continuity of active **duty** service since the license ~~or permit~~ had previously been ~~obtained or renewed~~ **held**. ~~The license and/or permit eligible for immediate renewal shall be the same license and/or permit held at the time the individual entered active service.~~

F. Issuance of New Licenses and Temporary Operator Permits to Residents Under in cases of Medical Hardship Conditions:

1. ~~A hardship shall be deemed to exist if a license holder who is actively fishing dies or becomes permanently or temporarily incapacitated by illness or injury so as to not be able to fish for any period in excess of fourteen (14) days. **Residents are eligible to obtain an operator permit in cases of medical hardship; such resident shall be designated by the current license holder.**~~
2. ~~The Department will require proof **Demonstration** of the medical hardship **shall be required** in the form of a ~~death certificate, or a diagnosis and prognosis of the incapacity of the license holder~~ signed by a medical doctor (M.D. or O.D.).~~
3. ~~Solely for the purposes of this section, a license holder shall be deemed to satisfy the requirement to be found "actively fishing" if the license holder demonstrates to the satisfaction of the Division by dated transaction records, and for multiple-day trips, Vessel Trip Reports, that he or she has fished at least 40 days pursuant to a valid RI license in at least 2 consecutive calendar years from 2006 to the date of the license holder's hardship. Such fishing activity needs to be in the same fishery sector(s) or endorsement category(s) for which a new license/endorsement is being sought, as specified in this Section.~~
4. ~~In the case of permanent incapacity or death, the Department will issue, upon application, a single, new, equivalent license with applicable endorsement(s) to a member of the license holder's family who is a Rhode Island resident. That family member may be designated by the license holder, or by mutual agreement among surviving family members if the license holder is deceased.~~
5. ~~If a license holder dies without designating a family member, who is a Rhode Island resident and the license holder's surviving family members are unable to reach a mutual agreement has not been reached as to which family member who is a Rhode Island resident should be issued a single, new, license with applicable endorsement(s) that is the equivalent of the license with applicable endorsement(s) that was held and actively fished by the decedent license holder at the time of his/her demise, the~~

Commented [DP(47)]: Nothing new being proposed. Split "Incapacity" from "Medical hardship" into 2 separate sections as are 2 distinctly separate situations

Commented [DP(48)]: Not defined terms; no meaning

Commented [DP(49)]: Incapacity is defined; duplicative

Commented [DP(50)]: Not deleted; re-located up to Activity Standard section

Commented [DP(51)]: Not a defined term; no meaning

Commented [DP(52)]: Moved up to Incapacity

~~administer or executor of the estate of the decedent license holder shall be entitled to be re-issued by the Department a single, new equivalent license with applicable endorsement(s) at the statutorily established fee(s) for up to two (2) years during the probating of the estate.~~

Commented [DP(53): Applies in cases of Incapacity, included above

Commented [DP(54): Incapacity; moved up

6. ~~In lieu of § 2.7.7(1)(4) of this Part, in the case of permanent incapacity or death, the Department will issue, upon application, an operator permit or equivalent license of the same category to a Rhode Island resident designated by the incapacitated license holder, or in the case of death, by the deceased individual's next of kin. Said permit or license will serve as the legal equivalent of the license held by the original licensee. Prior to issuance of the operator permit or equivalent license, the original license will be surrendered. The operator permit or equivalent license will be valid for the balance of the license year and will be eligible for renewal once, at a cost equal to the original license, upon approval by the Director.~~

Commented [DP(55): Medical hardship eligibility; included in section 1. above

Commented [DP(56): Incapacity eligibility; included in Incapacity section

Commented [DP(57): Permit is issued and therefore valid

Commented [DP(58): Included below

73. ~~In the case of temporary incapacity, exceeding a period of fourteen (14) days, the Department will issue, upon application, an operator permit or equivalent license of the same category to a Rhode Island resident designated by the incapacitated license holder. Said permit or license will serve as the legal equivalent of the license held by the incapacitated license holder. Prior to issuance of the operator permit or equivalent license, the original **currently held** license **must be surrendered to the Department and** will be **temporarily** suspended. **Upon application for the operator permit, the operator permit or equivalent license the Department will then issue an operator permit equivalent to the license held, which** will remain valid for the balance of the license year, or until the return to wellness of the incapacitated license holder, whichever occurs first. The operator permit ~~or equivalent license~~ will be eligible for renewal once, at a cost equivalent to the cost of the ~~original~~ license, upon approval ~~of by~~ the Director. Upon the return to wellness of the incapacitated license holder **and application for re-instatement of the license**, the ~~original~~ license will, ~~upon application,~~ be re-instated, **and upon surrendering** the operator permit ~~or equivalent license~~ will be surrendered.~~

Commented [DP(59): Medical hardship

Commented [DP(60): Permit is issued and therefore valid

84. ~~New equivalent licenses issued **applications made** pursuant to this section are not subject to the **an** application deadline ~~provisions set forth under § 2.7.7(C) of this Part.~~~~

9. ~~Any new license/endorsement(s) issued to the purchaser by the Department pursuant to § 2.7.7(1) of this Part may only be issued to the new licensee upon payment to the Department of the statutorily established fee for the subject license or endorsement.~~

FG. Prioritization for the Issuance of New Licenses and Endorsements; Prioritization:

1. In cases where only a limited number of new licenses or endorsements are to be issued, the Department shall provide priority to applicants as described herein. All eligible applicants in each priority category will be issued licenses or endorsements before any licenses or endorsements are issued to applicants in the next lower priority category. If in any priority category there are more eligible applicants than there are licenses or endorsements available for issue, those licenses or endorsements will be issued by lottery, unless otherwise specified herein.

Commented [DP(61): Not new; re-located from 2.7.7(E)(3)]

12. **First priority:** First priority in the issuance of new licenses with applicable endorsement(s) shall be given to:

- a. Licensed resident ~~fishers~~ **persons** holding Commercial Fishing Licenses, endorsed in the same fishery sector for which a new license/ endorsement is being sought, who have been actively fishing that endorsement,
- b. Licensed resident ~~fishers~~ **persons** holding Principal Effort Licenses who have been actively fishing their license, and
- c. Resident crew members who have been actively participating in the same fishery sector for which a new license/endorsement is being sought.
- d. One-third of the total number of new licenses with applicable endorsements will be made available to each of the three priority categories. If, in any of the categories, there are fewer eligible applicants than there are licenses/endorsements available for issue, then the balance will be evenly distributed to the other two categories. Within each category, eligible applicants will be prioritized based on the length of time, in years, they have been actively fishing their license, or actively participating in the fishery as a crew member, on a continuing basis. If the selection of qualified applicants cannot be resolved equitably by the initial prioritization and lottery process, and if the number of remaining endorsements cannot be distributed evenly between the remaining categories, the number of remaining endorsements will be rounded up to provide each remaining category with the necessary endorsement(s) required to complete the selection process.

24. **Second priority:** Second priority in the issuance of new licenses with applicable endorsement(s) shall be given to:

- a. Licensed resident fishers holding Commercial Fishing Licenses, endorsed in any fishery sector, who have been actively fishing their license and

- b. Resident crew members who have been actively participating in any fishery sector.
- c. One-half of the total number of new licenses with applicable endorsements will be made available to each of the two categories. If, in any of the categories, there are fewer eligible applicants than there are licenses/endorsements available, then the balance will be distributed to the other category. Within each category, eligible applicants will be prioritized based on the length of time, in years, they have been actively fishing their license, or actively participating as a crew member, on a continuing basis. If the selection of qualified applicants cannot be resolved equitably by the initial prioritization and lottery process, and if the number of remaining endorsements cannot be distributed evenly between the remaining categories, the number of remaining endorsements will be rounded up to provide each remaining category with the necessary endorsement(s) required to complete the selection process.

35. Third priority: Third priority in the issuance of new licenses with applicable endorsement(s) shall be given to any resident, aged eighteen (18) or older.

46. Fourth priority: Fourth priority in the issuance of new licenses with applicable (i.e., restricted finfish) endorsement shall be given to any non-resident, aged eighteen (18) or older.

Hearing item 11 (section 2.7.5(H)): Proposed change/clarification of procedure regarding the appeal of a license denial due to medical hardship:

JH. Requests for Reconsideration Appeals of License Denials due to Medical Hardship:

1. There shall be no right to ~~request reconsideration by the commercial fishing license review board or~~ appeal to the Department of Environmental Management's Administrative Adjudication Division (AAD) for the rejection of any new license applications submitted after February 28, or any license renewal applications submitted after the sixty (60) day grace period, except in the case of a documented medical hardship as defined herein.
2. ~~Requests for reconsideration of license application denials in cases of medical hardship must be submitted to the Board in writing, c/o the Office of Boating Registration and Licensing, within ten (10) days of receipt of the denial. The request for reconsideration shall state the applicant's name, and current mailing address, and state the specific reason why the denial is in error with reference to the considerations enumerated in § 2.7.7(J)(7) of this Part.~~

~~G2. The applicant may appeal the denial to the Administrative Adjudication Division for Environmental Matters pursuant to R.I. Gen. Laws § 42-17.7-1 et seq. and the procedures set forth in 250-RICR-10-00-1, Administrative Rules of Practice and Procedure of the Administrative Adjudication Division for Environmental Matters.~~

~~3. The burden of proof shall be on the applicant to demonstrate to the Board that he or she meets the criteria for issuance of a license. Such proof shall include written documentation of a diagnosis and prognosis of the medical hardship of the license holder signed by a medical doctor (M.D. or O.D.).~~

~~4. A quorum of the Board shall review the denial, the request for reconsideration and additional evidence or testimony under oath or affirmation, if determined to be necessary by the Board.~~

~~5. The Board shall render a written recommendation to the Office of Boat Registration and Licensing within thirty (30) days of the receipt of the request for reconsideration. The recommendation shall include the specific grounds for its decision and the vote of the Board. A copy of the recommendation will be mailed first class, postage prepaid, to the applicant.~~

~~6. If a written recommendation is not rendered within thirty (30) days as set forth above, the preliminary decision of the Office of Boating Registration and Licensing shall become final and subject to appeal pursuant to this section.~~

~~7. In reaching its recommendation the Board shall consider:~~

~~a. The impact that issuance of the license will have on the fisheries management program overall;~~

~~b. Equity with other license holders;~~

~~c. Consistency with prior agency decisions;~~

~~d. Consistency with management plans;~~

~~e. Unreasonable hardship to the applicant; and consistency with the provisions and purposes of R.I. Gen. Laws Chapter 20-2.1 and this Part;~~

~~f. Within ten (10) days of receipt of the recommendation of the Board, the Office of Boat Registration and Licensing shall issue a written decision affirming, denying or modifying the recommendation of the Board and shall state the rationale therefore. A copy of the decision will be mailed first class, postage prepaid, to the applicant;~~

Commented [DP(62)]: Not new; copied from Medical Hardship section

~~g. The applicant may appeal the decision of the Office of Boating Registration and Licensing to the Administrative Adjudication Division for Environmental Matters pursuant to R.I. Gen. Laws § 42-17.7-1 et seq. and the procedures set forth in 250-RICR-10-00-1, Administrative Rules of Practice and Procedure of the Administrative Adjudication Division for Environmental Matters;~~

~~h. The written decisions of the Board and of the Office of Boating Registration and Licensing shall be provided and made part of the administrative record upon appeal to the Administrative Adjudication Division for Environmental Matters.~~

Commented [DP(63)]: Re-written to accurately describe process

2.7.92.7.6 Licenses, Endorsements and Vessel Declarations; Resident:

- A. Fishery Endorsements: Any Commercial Fishing or Principal Effort License issued to a Rhode Island resident pursuant to these regulations may, upon demonstration of eligibility by the applicant, be endorsed to allow participation in the following fishery sectors ~~at levels established pursuant to § 2.8 of this Part:~~
1. Non-Lobster Crustacean;
 2. Lobster;
 3. Quahaug;
 4. Soft-shell clam;
 5. Shellfish Other;
 6. Non-Restricted Finfish;
 7. Restricted Finfish;
 8. Whelk.
- B. Commercial Fishing License:
1. Applicants must provide proof of Rhode Island residency and pay an annual fee of fifty dollars (\$50), plus twenty-five dollars (\$25) per fishery endorsement.
 2. The holder of a Commercial Fishing License may participate in any fishery sector for which he/she holds an endorsement ~~at Basic Harvest and Gear Levels set by the Department pursuant to § 2.8 of this Part.~~
- C. Principal Effort License:

1. Eligible applicants must present proof of Rhode Island residency and pay an annual fee of one hundred and fifty dollars (\$150) which entitles them to fish in a single fishery endorsement category.
2. The holder of a Principal Effort License may participate in any fishery sector for which he/she holds a fishery endorsement ~~at Full Harvest and Gear Levels as set by the Department pursuant to § 2.9 of this Part.~~
3. The holder of a Principal Effort License may also obtain a Commercial Fishing License with applicable endorsements to fish other sectors ~~at Basic Harvest and Gear Levels~~, and/or obtain additional fishery endorsements on his or her Principal Effort License to fish other sectors ~~at Full Harvest and Gear Levels~~, if such endorsements are available for any given license year; provided that a license holder may not hold both a Principal Effort and Commercial Fishing License in the same fishery sector. The annual fee for additional fishery endorsements on Principal Effort Licenses is seventy-five dollars (\$75) each.
4. The holder of a Commercial Fishing License or a Principal Effort License with a Quahaug endorsement shall not be required to pay the annual fee for that license if the license holder is at least sixty-five (65) years old as of February 28 of the applicable license year. The license holder is still required to pay the fee for the "Non-Lobster Crustacean", "Lobster", "Non-Restricted Finfish", "Restricted Finfish", as well as all additional "Gear", "Dockside Sales", "Logbook" endorsements on their Commercial Fishing License or Principal Effort License.

D. Multi-Purpose License:

1. Eligible applicants must present proof of Rhode Island residency and pay an annual fee of three hundred dollars (\$300).
2. The holder of a Multi-Purpose License may participate in all fishery endorsement sectors ~~at Full Harvest and Gear Levels as set by the Department pursuant to § 2.9 of this Part.~~

E. Student Shellfish License:

1. Applicants must present proof of Rhode Island residency and pay an annual fee of fifty dollars (\$50).
2. Applicants must be no older than twenty-three (23) years as of June 30 of the license year.
3. Applicants must present proof that they are full-time students in the form of a notarized letter or transcript from the learning institution in which they are enrolled.

4. The holder of a Student Shellfish License may participate in the Quahaug endorsement sector ~~at Basic Harvest and Gear Levels as set by the Department pursuant to § 2.9 of this Part.~~
5. The holder of a Student Shellfish License may also obtain a Commercial Fishing License and/or a Principal Effort License, with endorsements, ~~to fish other sectors at Basic or Full Harvest and Gear Levels,~~ if such licenses or endorsements are available for any given license year; provided that the holder of a Student Shellfish License may not also hold a Commercial Fishing or Principal Effort License with a quahaug endorsement.

F. 65 and Over Shellfish License:

1. Applicants must present proof of Rhode Island residency.
2. There is no fee.
3. Applicants must be at least sixty-five (65) years old as of February 28 of the license year.
4. The holder of a 65 and Over Shellfish License may participate in the Quahaug endorsement sector ~~at Basic Harvest and Gear Levels, as set by the Department pursuant to § 2.8 of this Part.~~
5. The holder of a 65 and Over Shellfish License may also obtain a Commercial Fishing License and/or a Principal Effort License, with endorsements, to fish other fishery sectors ~~at Basic or Full Harvest or Gear Levels,~~ if such licenses or endorsements are available and the application requirements are met for any given license year; provided that the holder of a 65 and Over Shellfish License may not also hold a Commercial Fishing or Principal Effort License with a quahaug endorsement.

G. Gear Endorsements:

1. Gear endorsement categories shall include Fish Trap, Gill Net, Purse Seine, and Mid Water/Pair Trawl.
2. The Fish Trap gear endorsement shall allow the license holder to set one or more fish traps in accordance with all applicable requirements of R.I. Gen. Laws Chapter 20-5. The annual fee shall be twenty dollars (\$20) per trap location for a three-year period. Applicants who possessed a valid Fish Trap gear endorsement as of the immediately preceding year may obtain a Fish Trap endorsement for the immediately following year, subject to the same terms and conditions in effect as the immediately preceding year. New fish trap endorsement opportunities shall be established by rule, pursuant to ~~applicable fisheries~~ management plans.

3. The Gill Net gear endorsement shall allow the license holder to set a gill net in accordance with all applicable regulations. The annual fee shall be twenty dollars (\$20). Applicants who possessed a Gill Net gear endorsement as of the immediately preceding year may obtain a Gill Net endorsement for the immediately following year. New gill net endorsement opportunities shall be established by rule, pursuant to applicable fisheries management plans.
4. The Purse Seine and Mid Water/Pair Trawl gear endorsements shall allow the license holder to set these gear types in accordance with all applicable regulations. The holders of Purse Seine and/or Mid Water/Pair Trawl gear endorsements must consent to carry an observer on the vessel and/or on any spotter plane used as part of the operation, per the request of DEM; must report any/all landings of menhaden on a daily basis to the Division of Marine Fisheries; must report beginning, location, and cessation of fishing activities on a daily basis to the Division of Enforcement; and must obtain and have on board charts showing the known locations of fixed-gear clusters, as provided by the Division of Marine Fisheries. The annual fee for each endorsement shall be twenty dollars (\$20). New Purse Seine or Mid Water/Pair Trawl endorsement opportunities shall be established by rule, pursuant to applicable fisheries management plans.
5. ~~By rule, the~~ The Department may add, eliminate, or modify gear endorsement categories; in so doing, the Department will consider the status of each fishery, levels of participation by existing license holders, the impact of the gear type on fishing mortality, and the provisions of applicable fisheries management plans and programs.

H. Vessel Declaration:

1. Every vessel employed in the commercial fishery must be declared with the Department at the time the owner/operator of such a vessel first applies for or subsequently renews his/her fishing license; or if a license has already been issued, prior to that vessel being used for commercial fishing.
2. Each such vessel must be individually and separately declared, on an annual basis, and the required fee paid.
3. The vessel declaration will include the name of the vessel and its owner, its length and horsepower, displacement, registration and/or federal permit number, gear type(s), principal fishery(s), and number of crew.
4. The annual fee for a vessel declaration is twenty-five dollars (\$25) per vessel for vessels up to and including twenty-five (25) feet in length, plus fifty cents (50¢) per linear foot for each whole foot over twenty-five (25) feet.

5. A declared vessel will be issued decals, which must be prominently displayed on the port and starboard bow, or on the port and starboard sides of the console cabin or wheelhouse, or elsewhere on the port and starboard sides of the vessel such that they are readily viewable. The displayed decals must be updated annually.
6. Declared vessels that are less than twenty-five (25) feet long may obtain a vessel declaration plate upon payment of an additional annual fee of fifteen dollars (\$15). The vessel declaration of the declared vessel may be temporarily transferred to another vessel less than twenty-five (25) feet long by affixing the aforementioned plate to that vessel. For purposes of this section, "temporary" shall mean not more than sixty (60) days, with one sixty (60) day extension in any given year by permission of the Department.

I. Dockside Sales Endorsement:

1. The endorsement shall enable the holder to sell live lobsters and crabs directly to consumers at dockside. Only live lobsters and crabs may be sold under the endorsement. Sales of shellfish and finfish to anyone other than licensed dealers are prohibited.
2. The endorsement shall be available to all Rhode Island license and landing permit holders who are authorized to harvest and land for sale lobsters and/or crabs. With regard to lobsters, such licenses and permits shall include: multi-purpose license, principal effort license with lobster endorsement, commercial fishing license with lobster endorsement; and resident and non-resident landing permit. With regard to crabs, such licenses and permits shall include: multi-purpose license; principal effort license with non-lobster crustacean endorsement; commercial fishing license with non-lobster crustacean endorsement; and resident and non-resident landing permit.
3. The purchase of a dockside sales endorsement will ensure that the licensee/permittee receives a paper dockside sales logbook.
4. A licensee/permittee who declared their reporting method as a federal vessel trip report is required to report all dockside sales via the paper dockside sales logbook.
5. Individuals selling lobsters and crabs under the dockside sales endorsement must at all times possess, and display upon request, a current and proper license or landing permit, as set forth above; and said license or permit must include a dockside sales endorsement.
6. Only the licensee/permittee, or a regularly employed crew member of the licensee/permittee, may sell lobsters and crabs at dockside under the dockside sales endorsement. To be eligible to conduct such sales, a crew

member must first receive written authorization from the licensee/permittee. Such authorization shall be in the form of a type-written statement, signed and dated by the licensee/permittee that expressly authorizes the crew member to act on behalf of the licensee/permittee with regard to dockside sales. The statement shall further specify: the name of the crew member, the name of the vessel from which the sales are conducted, and the month and year that the crew member began working on the vessel. The statement shall be kept on the vessel and be available at all times for inspection by Department personnel. A crew member who is acting on behalf of a licensee/permittee in accordance with this subsection must comply with all applicable regulations governing dockside sales, as set forth herein, and the licensee/permittee shall be responsible for any violations of regulations by the crew member.

7. Licensees/permittees offering live lobsters and crabs for sale at dockside must meet all applicable and current Federal and State laws and regulations governing harvest and possession relating to the species being sold.
8. Licensees/permittees offering live lobsters and crabs for sale at dockside must meet all applicable and current Federal, State, and local laws and regulations governing retail sales operations, including but not necessarily limited to those governing taxation, signage, noise, and hours of operation.
9. Licensees/permittees offering live lobsters and crabs for sale at dockside may only sell live lobsters and crabs that they harvested, and all sales must be made from the vessel that harvested the product, unless otherwise authorized by the Director.
10. Sales at dockside may only be to the final consumer – i.e. the individual(s) who will be consuming the product - and no resale of, or commercial transaction involving, the product beyond the final consumer is allowed.
11. Licensees shall include, on all landing reports and other data submitted to the National Marine Fisheries Service and/or the Department, the lobsters and crabs offered for sale at dockside to the general public.
12. The annual fee for the dockside sales endorsement shall be twenty-five dollars (\$25.00).
13. The dockside sales endorsement is not subject to the application deadline provisions as set forth in § 2.6.7(C) of this Part; as such, the endorsement shall be available at any time during the year to holders of current and proper commercial fishing licenses and landing permits issued by the Department.

14. All dockside sales reports and reports of no sales activity are due to the Division of Marine Fisheries quarterly.

J. Research Set Aside (RSA) Endorsement:

1. The RSA endorsement shall enable the holder to land marine species, for sale, in Rhode Island, in accordance with RSA quota obtained from the National Marine Fisheries Service.
2. The endorsement shall be automatically available to anyone who obtains an Exempted Fishing Permit from the Department, allowing for the harvest and/or landing of RSA quota in Rhode Island.
3. Both the endorsement and the permit must be obtained prior to the landing of any RSA quota for state quota monitored species in Rhode Island.
4. Upon presentation of an approved and valid Exempted Fishing Permit from the Department, an RSA endorsement will be issued.
5. The annual fee for the issuance of an RSA endorsement for state quota monitored species shall be twenty-five dollars (\$25).
6. The RSA endorsement is not subject to the application deadline provisions as set forth in § 2.6.7(C) of this Part; as such, the endorsement shall be available at any time during the year to holders of current and proper commercial fishing licenses, and Exempted Fishing Permits, issued by the Department.

K. Paper Catch and Effort Harvester ~~and Dockside Sales~~ Logbooks Endorsement:

1. The **Paper Catch and Effort Harvester** logbook endorsement shall **enable authorize** the **license** holder to **obtain use** a paper harvester catch and effort logbook, ~~printed by RIDFW, that will be used in lieu of electronic reporting~~ to report ~~all~~ catch and effort information ~~required by R.I. Gen. Laws § 20-4-5. Paper Catch and Effort Harvester logbooks are issued by the Director.~~
- ~~2. The endorsement shall be automatically available to anyone who holds a Rhode Island landing permit, multipurpose fishing license, commercial fishing license or a principle effort license with restricted or non-restricted finfish, lobster or non-lobster crustacean, horseshoe crab — biomedical, horseshoe crab — bait or whelk endorsements.~~
- ~~3. At the time of initial license/permit purchase or license/permit renewal, the applicant is required to declare a reporting method: harvester catch and effort logbook, federal vessel trip report, or e-TRIPS. The harvester catch~~

Commented [DP(64)]: Section does not address Dockside sales logbook

Commented [DP(65)]: Consistency with 20-4-5 stated in Data Reporting section

Commented [DP(66)]: Regs articulate restrictions, if not, then is allowed. So nothing changed by removing this statement

~~and effort logbook and e-TRIPS reporting methods cannot be declared together.~~

Commented [DP(67)]: Application requirement. Moved to that section as broader applicability

42. If the declared **as the** reporting method, **the Paper Catch and Effort** Harvester ~~catch and effort~~ logbook, ~~the applicant is required to~~ **endorsement fee must be** purchase the logbook endorsement **paid** at **the** time of ~~initial license/permit purchase or license/permit renewal application.~~

53. Paper ~~harvester~~ Catch and Effort **Harvester** logbook submissions will not be accepted ~~by RIDFW to meet the license holder's reporting requirement~~ from any license holder who does not have **hold** the logbook endorsement.

~~6. All trips via electronic or paper recording, are required to be filled out before the start of the next trip, and at a minimum, both trip reports and did not fish reports are due to the Division of Marine Fisheries quarterly.~~

Commented [DP(68)]: Not deleted; re-located to "Data Reporting" section as has broader applicability

74. The Annual fee; ~~for the issuance of a logbook endorsement shall be~~ **twenty-five dollars (\$25).**

~~8. The logbook endorsement is subject to the application deadline provisions as set forth in § 2.6.7(C) of this Part.~~

2.7.92.7.7 Licenses, Endorsements and Vessel Declarations; Non-Resident:

A. Non-Resident Fishery Endorsements: Any Commercial Fishing or Principal Effort License issued to a non-resident pursuant to these regulations may, upon demonstration of eligibility by the applicant, be endorsed to allow participation in the following fishery sectors ~~at levels established pursuant to § 2.8 of this Part:~~

1. Non-Restricted Finfish;
2. Restricted Finfish.

B. Non-Resident Commercial Fishing License:

1. Applicants must be at least eighteen (18) years old.
2. The holder of a Non-Resident Commercial Fishing License may participate in either or both fishery sectors for which he/she holds an endorsement, provided that his/her state of residence does not prohibit commercial licensing opportunities for Rhode Island residents in finfish fisheries for which licensing opportunities are available for residents of that state.
3. The Division of Marine Fisheries shall annually review the regulations of the states of Massachusetts, Connecticut, and New York to determine

whether those states provide Rhode Island residents the privileges referenced in § ~~2-7-9~~ **2.7.7** (B)(2) of this Part. For applicants from any other state, it shall be the applicant's burden to prove that his/her state of residence provides Rhode Island residents the privileges referenced in § ~~2-7-9~~ **2.7.7** (B)(2) of this Part through a certified copy of the relevant regulation. This copy is to be forwarded to the Division of Marine Fisheries for review and approval a minimum of two weeks before a license may be issued.

4. The annual fee for a Non-Resident Commercial Fishing License shall be one hundred and fifty dollars (\$150) plus fifty dollars (\$50) per endorsement.

C. Non-Resident Principal Effort License:

1. Eligible applicants must demonstrate that their state of residence complies with § ~~2-7-9~~ **2.7.7**(B)(2) of this Part regarding treatment of Rhode Island residents.
2. The holder of a Non-Resident Principal Effort License may harvest, land and sell any species of fish for which he/she holds the appropriate endorsement(s) - Restricted and/or Non-Restricted Finfish ~~-at Full Harvest and Gear Levels established pursuant to § 2-9 of this Part.~~
3. The annual fee for a Non-Resident Principal Effort License shall be four hundred dollars (\$400), plus one hundred dollars (\$100) per endorsement.

D. Non-Resident Vessel Declaration:

1. Applicants must comply with the requirements of § ~~2-7-8~~ **2.7.6**(H) of this Part, provided that temporary transfers of vessel declarations between vessels less than twenty-five (25) feet in length via vessel declaration plates are not permitted.
2. The fee for a Non-Resident Vessel Declaration shall be fifty dollars (\$50), plus one dollar and fifty cents (\$1.50) for each whole foot over twenty-five (25) feet in length overall.

~~2-7-10~~**2.7.8** **Landing Permits:**

A. General Requirements:

1. A Landing Permit or a valid Rhode Island Resident or Non-Resident Licenses with the appropriate fishery endorsements, but not both a permit and license, is required to off-load any seafood product legally harvested outside of Rhode Island waters for sale or intended sale in Rhode Island, or to secure a vessel with the seafood products on board to a shoreside facility where the products may be offloaded for sale or intended sale.

2. If the operator of a vessel carrying seafood products notifies the Department's Division of Law Enforcement at least four hours before entering Rhode Island waters that he/she intends to dock in a Rhode Island port for specified purposes other than landing, selling, or offering that seafood for sale, and if permission to do so is first obtained from the Division of Law Enforcement, no landing permit or Rhode Island license is required.
3. The Department will issue a Landing Permit upon proof that an applicant holds a valid federal or non-Rhode Island State license or permit(s) to harvest a given species or group of similar species, provided that the Landing Permit so issued will only allow the landing of those species authorized by said federal or state permit.
4. A Landing Permit is issued to an individual and not a vessel, although the vessel(s), which will generate the landings, must be identified. The landing permit may not be transferred and does not attach to a vessel when it is sold.
5. The individual in charge of a vessel subject to this section must be in possession of a Landing Permit issued to that individual in order for that vessel to legally enter Rhode Island waters.
6. Landing permits are not subject to the application deadline provisions set forth under § ~~2-7.7~~ 2.7.5 (C) of this Part.

B. Resident Landing Permit:

1. The holder of a Resident Landing Permit may land, sell, or offer for sale any marine fishery species or product, in accordance with all applicable Rules and Regulations governing those species.
2. The annual fee for a Resident Landing Permit is two hundred dollars (\$200).
- ~~3. This landing permit category consolidates the following permit types under one streamlined permit:~~
 - ~~a. Resident Finfish Landing Permit;~~
 - ~~b. Resident Crustacean Landing Permit;~~
 - ~~c. Resident Shellfish Landing Permit;~~
 - ~~d. Resident Miscellaneous Landing Permit;~~
 - ~~e. Resident Multipurpose Landing Permit.~~

C. Non-Resident Landing Permit with Restricted Finfish:

1. The holder of a Non-Resident Landing Permit with Restricted Finfish may land, sell, or offer for sale any marine fishery species or product including restricted finfish species, in accordance with all applicable Rules and Regulations governing those species.
2. The annual fee for Non-Resident Landing Permit with Restricted Finfish is four hundred dollars (\$400).
3. New Non-Resident Landing Permit with Restricted Finfish will only be issued if the landing is charged to the quota of the state in which the vessel making the landing is registered or documented; or, if the state where the vessel making the landing is registered or documented allows Rhode Island residents to land against its quota for that species; or, if the Department, pursuant to a ~~duly-adopted~~ fisheries management plan, determines there to be excess harvesting capacity in the Rhode Island commercial quota for that species.
4. Renewal of Non-Resident Landing Permit with Restricted Finfish are considered to be new permits subject to the provisions of § ~~2.7.10~~ 2.7.8 (C)(3) of this Part unless the applicant can show evidence of Rhode Island landings of more than one thousand pounds of that species per year in four of the five years preceding the application. Having made that demonstration, a holder of a Non-Resident Landing Permit with Restricted Finfish who held that permit as of the immediately preceding year may renew it for the immediately following year as set forth herein.
5. If a non-resident vessel is upgraded by twenty percent (20%) or more in length, displacement or horsepower, renewal of a Non-Resident Landing Permit with Restricted Finfish will be considered a new permit application, issuance of which is subject to the requirements of § ~~2.7.10~~ 2.7.8(C)(3) of this Part.

~~6. This landing permit category consolidates the following permit types under one streamlined permit:~~

~~a. Non-Resident Restricted Finfish Landing Permit~~

D. Non-Resident Landing Permit:

1. The holder of a Non-Resident Landing Permit may land, sell, or offer for sale any marine fishery species or product, except restricted finfish, in accordance with all applicable Rules and Regulations governing those species and products.
2. The annual fee for a Non-Resident Landing Permit is four hundred dollars (\$400).

~~3. This landing permit category consolidates the following permit types under one streamlined permit:~~

- ~~a. Non-resident Finfish Landing Permit;~~
- ~~b. Non-resident Crustacean Landing Permit;~~
- ~~c. Non-resident Shellfish Landing Permit;~~
- ~~d. Non-resident Miscellaneous Landing Permit;~~
- ~~e. Non-resident Multipurpose Landing Permit.~~

~~2.7.11~~**2.7.9 Dealer's Licenses:**

A. General Requirements:

1. No person, partnership, firm, association, or corporation shall sell, purchase, barter or trade in any marine fisheries species unless having first obtained a dealer's license as provided for in this section for the applicable fishery; or unless the activity is exempt from licensing requirements as set forth in § ~~2.7.11~~ **2.7.9**(A)(2) of this Part.
2. Any person, partnership, firm, association, or corporation engaged solely in the business of selling seafood to consumers, either directly or through restaurants or other retail outlets, and/or engaged solely in the processing or preparation of seafood for sale directly to consumers, is not required to be licensed under these regulations, provided that such person, partnership, firm, association, or corporation purchases or otherwise acquires said seafood from licensed dealers.
3. Applicants for a dealer's license shall complete such forms containing such information as the Department may require.
4. Applicants for a dealer's license must demonstrate that they or their registered agent maintain a fixed place of business in the State of Rhode Island at which transaction records will be maintained and made available for inspection during normal business hours.
5. Each license is valid for the calendar year in which it is issued upon payment of the required fee.
6. A duly licensed dealer may transport any marine species otherwise subject to the requirement that a person transporting such species carry a Rhode Island commercial fishing license, so long as that dealer can demonstrate by a bill of lading that the fish in question had been sold by a duly licensed person.

B. Multi-Purpose Dealer's License:

1. The holder of a Multi-Purpose Dealer's License may buy and sell all wild marine fisheries species that may legally be landed in Rhode Island, but only in the amounts specified by rule. Licensed multi-purpose dealers may also buy and sell cultured marine fisheries species in accordance with applicable Rules and Regulations.
2. The annual fee is three hundred dollars (\$300).

C. Finfish Dealer's License:

1. The holder of a Finfish Dealer's License may buy and sell all wild finfish species that may legally be landed in Rhode Island, but only in the amounts specified by rule. Licensed finfish dealers may also buy and sell cultured finfish species in accordance with applicable Rules and Regulations.
2. The annual fee is two hundred dollars (\$200).

D. Shellfish Dealer's License:

1. The holder of a Shellfish Dealer's License may buy and sell all wild shellfish species that may legally be landed in Rhode Island, but only in the amounts specified by rule. Licensed shellfish dealers may also buy and sell cultured shellfish species in accordance with applicable Rules and Regulations.
2. The annual fee is two hundred dollars (\$200).

E. Lobster Dealer's License:

1. The holder of a Lobster Dealer's License may buy and sell all wild crustacean species, including lobster, that may legally be landed in Rhode Island, but only in the amounts specified by rule. Licensed lobster dealers may also sell cultured crustacean species in accordance with applicable Rules and Regulations.
2. The annual fee is two hundred dollars (\$200).

~~2.7.12~~**2.7.10 Penalties:**

A. Violations:

1. Violations of these regulations may subject the violator to the revocation or suspension of any license, endorsement or permit issued pursuant thereto.

2. Revocations or suspensions may be appealed to the Administrative Adjudication Division.

B. False Statements:

1. Any person who willfully misrepresents any fact or facts required to be provided in support of any license, endorsement, or permit application provided for herein, or who is party to such willful misrepresentation, shall be punished by a fine of not more than fifty dollars (\$50).
2. Any license, endorsement, or permit obtained as a result of such false statements or misrepresentations shall be null and void and shall be surrendered to the Department forthwith.
3. No new license, endorsement, or permit may be issued to any violator of this section for a period of one (1) year from the date that penalties are imposed.

C. Alterations, Forgeries and Counterfeits:

1. Any person who falsely makes, alters, forges, or counterfeits, or who causes to be falsely made, altered, forged or counterfeited, a license, endorsement, or permit issued pursuant to these regulations, or who shall have in his or her possession such a license, endorsement, or permit, knowing it to be false, altered, forged or counterfeit is guilty of a misdemeanor and subject to a fine of not more than five hundred dollars (\$500) and imprisonment for not more than ninety (90) days, or both.
2. No new license endorsement or permit may be issued to any violator of this section for a period of one (1) year from the date that penalties are imposed.

D. Failure to Possess, Present or Display a Proper License, Permit or Vessel Declaration:

1. Any person who fails to possess a valid, properly endorsed license, permit, or vessel declaration while engaged in commercial fishing, or fails or refuses to present or display said license, permit or endorsement upon request by individuals authorized by the Director, shall be guilty of a misdemeanor and subject to a fine of not more than five hundred dollars (\$500) and imprisonment for not more than ninety (90) days, or both. Any such person may also be subject to the seizure and forfeiture provisions under R.I. Gen. Laws §§ 20-1-8 and 20-1-8.1.

~~2. Expiration. Unless otherwise specified in this title, all licenses issued under this chapter shall be annual and shall expire on December 31 of each year. It shall be unlawful for any person to fish commercially in Rhode Island waters on an expired license application. The grace period~~

~~set forth in § 2.7.7(C)(5) of this Part shall not extend the validity of any expired license.~~

Commented [DP(69)]: Not deleted; moved up to general licensing

~~2.8 Availability of New Licenses and Endorsements Annually~~

~~2.8.1 Multi-Purpose Licenses:~~

~~New Multi-Purpose Licenses shall be only available pursuant to §§ 2.7.7(H) and (I) of this Part.~~

~~2.8.2 Principal Effort Licenses:~~

~~A. Restricted Finfish endorsement: A limited number of new Principal Effort Licenses with Restricted Finfish endorsement will be available annually pursuant to the exit/entry ratio set forth in § 2.7.1(J) of this Part and the prioritization process established in §§ 2.7.7(F) and (G) of this Part.~~

~~B. Additional new Principal Effort Licenses shall only be available pursuant to §§ 2.7.7(H) and (I) of this Part.~~

~~C. For applicants obtaining Principal Effort Licenses via renewal, the following new endorsements, in addition to the one(s) they qualify for, will be available:~~

- ~~1. Non-Lobster Crustacean (resident only),~~
- ~~2. Shellfish Other (resident only), and~~
- ~~3. Non-Restricted Finfish.~~

~~2.8.3 Commercial Fishing Licenses:~~

~~A. New Commercial Fishing Licenses shall be available to any resident or non-resident, provided that all applicable application requirements are met.~~

~~B. The following new endorsements will be available to all holders of Commercial Fishing Licenses: Non-Lobster Crustacean (resident only), Shellfish Other (resident only), and Non-Restricted Finfish.~~

~~C. A limited number of new Commercial Fishing Licenses with Quahaug and Soft-Shell Clam endorsements will be available annually pursuant to the exit/entry ratios set forth in § 2.7.1(J) of this Part and the prioritization process established in §§ 2.7.7(F) and (G) of this Part.~~

~~2.8.4 Student and 65 and Over Shellfish Licenses:~~

~~New Student and 65 and Over Shellfish Licenses shall be available to any Rhode Island resident, provided that all applicable application requirements are met.~~

~~2.8.5 Fish Trap Endorsements:~~

~~No new Fish Trap gear endorsements shall be made available annually, unless specified via separate regulatory action undertaken by the Director in accordance with R.I. Gen. Laws Chapter 20-5.~~

2.8.6 Gill Net Endorsements:

~~No new Gill Net gear endorsements shall be available annually, except pursuant to §§ 2.7.7(H) and (I) of this Part if deemed applicable by the Director.~~

2.8.7 Purse Seine Endorsements and Mid Water/Pair Trawl Endorsements:

~~New Purse Seine and Mid Water/Pair Trawl Endorsements will be issued annually, pursuant to § 2.7.8(G)(4) of this Part.~~

2.8.8 Whelk Endorsements:

~~New Whelk endorsements shall only be available annually pursuant to § 2.7.7(D)(7) of this Part.~~

2.9 Harvest and Gear Levels

2.9.1 Full Harvest and Gear Levels:

- A. ~~The Full Harvest and Gear Levels, applicable to all holders of Principal Effort Licenses for the fisheries for which they hold endorsements, and to all holders of Multi-Purpose Licenses, shall be the same harvest and gear restrictions in effect for all marine species available for commercial harvest during the license year, subject to modification, by rule, in accordance with the State's marine fisheries management program.~~
- B. ~~For lobsters, the full harvest and gear level shall be the number of lobster traps authorized and specified by the license holder's Lobster Trap Allocation. If using gear other than traps, the full harvest and gear level shall be the non-trap landing limits.~~

2.9.2 Basic Gear and Harvest Levels:

- A. ~~The Basic Harvest and Gear Levels, applicable to all holders of Commercial Fishing Licenses for the fisheries for which they hold endorsements, and to all holders of Student Shellfish and 65 and Over Shellfish Licenses, shall be as follows:~~
1. ~~Lobster: The same restrictions associated with the Full Harvest and Gear Level for Lobster.~~
 2. ~~Non-Lobster Crustacean: The same restrictions associated with the Full Harvest and Gear Level for Non-Lobster Crustacean.~~

Commented [DP(70): Duplicate. Eligibility for license renewals, new licenses, and endorsements specified above

~~3. Quahaug: A 3-bushel per day statewide limit, including all management areas, in addition to all other restrictions associated with the Full Harvest and Gear Level for Quahaug.~~

~~4. Soft-shell Clam: The same restrictions associated with the Full Harvest and Gear Level for Soft-shell Clam.~~

~~5. Shellfish Other: The same restrictions associated with the Full Harvest and Gear Level for Shellfish Other.~~

~~6. Non-Restricted Finfish: The same restrictions associated with the Full Harvest and Gear Level for Non-Restricted Finfish.~~

~~7. Whelk: The same restrictions associated with the Full Harvest and Gear level for Whelk.~~

Commented [DP(71)]: Obsolete.

~~2.10~~ **2.8 Recreational Saltwater Fishing Licenses**

~~2.10.1~~ **2.8.1 General Provisions:**

- A. It shall be unlawful for any person to fish or spearfish recreationally for finfish or squid in the marine waters of Rhode Island without a valid and current recreational saltwater fishing license.
- B. For the purpose of this section, an individual will be considered to be fishing or spearfishing recreationally if they are engaged in the process of angling via the use of any type of hook and line, or spearfishing via the use of any type of spear or powerhead, or if they possess equipment used for angling or spearfishing and are in possession of finfish or squid.
- C. A valid and current recreational saltwater fishing license may include: a RI recreational saltwater fishing license, a recreational saltwater fishing license from a reciprocal state, or a national saltwater angler registration.
- D. Reciprocal states are listed at saltwater.ri.gov.
- E. Anglers and spearfishers must be in possession of, or within close proximity to, their license at all times while engaged in angling or spearfishing. The term close proximity shall be construed to mean aboard a vessel, on which or from which an individual is angling or spearfishing; or, for shore-based anglers, or spearfishers, within a nearby car or other location that is within walking distance from the point of exit from the water.
- F. Anglers and spearfishers shall present a valid and current recreational saltwater fishing license for inspection upon demand by an authorized law enforcement officer.

- G. Failure to meet the terms of this section shall be deemed a violation, subject to the penalties set forth under R.I. Gen. Laws § 20-2.2-8.

2.10-2.8.2 Exemptions:

- A. No license is required for: anglers or spearfishers who are under 16 years of age; anglers or spearfishers on party or charter ~~boats~~ **vessels** that are licensed in accordance with R.I. Gen. Laws § 20-2-27.1; licensed party or charter ~~boat~~ **vessel** operators when fishing in party/charter mode; anglers or spearfishers who are on leave from active military duty; anglers or spearfishers who are blind or permanently disabled; anglers or spearfishers who hold federal Highly Migratory Species Angling Permits, issued under their name of the angler or spearfisher; anglers or spearfishers who are fishing or spearfishing during a free-fishing day, designated by the Director; or anyone who is fishing commercially in accordance with a current and valid commercial fishing license.
- B. Where appropriate, anglers or spearfishers who are exempt shall carry applicable proof, and present such proof, along with a photo ID, upon demand by an authorized law enforcement officer.

2.11 2.9 Vessel-Based Regulations

2.11.1 2.9.1 Vessels Fishing Recreationally Mode:

- A. Any vessel – including a commercially declared and/or licensed party/~~or~~ charter vessel – may ~~fish~~ **operate** in recreational mode, in accordance with all applicable recreational regulations.
- B. With regard to all species that are not subject to per-vessel restrictions, compliance with possession limits while fishing in recreational mode shall be determined by dividing the total number of fish aboard the vessel by the total number of licensed or exempt recreational fishers or spearfishers aboard the vessel.
- C. If a vessel makes more than one trip in recreational mode per day, the catches attributable to the same licensed or exempt fishers or spearfishers who go out again are cumulative.

2.11.2 2.9.2 Party/Charter ~~Vessels~~ Mode:

- A. Only ~~party/charter~~ vessels licensed in accordance with R.I. Gen. Laws § 20-2-27.1 may ~~fish~~ **operate** in party/charter mode.
- B. A vessel is **fishing operating** in party/charter mode whenever the vessel is carrying one or more passengers for hire for the purpose of engaging in recreational fishing or spearfishing.

- C. **Unless otherwise specified,** vessels **fishing operating** in party/charter mode must adhere to **all applicable** recreational, ~~or party/charter,~~ regulations.
- D. With regard to all species that are not subject to per-vessel restrictions, **possession limit** compliance ~~with possession limits while fishing for vessels~~ **operating** in party/charter mode shall be determined by dividing the total number of fish aboard the vessel by the total number of ~~recreational fishers~~ **anglers** or spearfishers aboard the vessel.
- E. If a vessel makes more than one trip in party/charter mode per day, ~~the catches~~ **any marine species possessed by** ~~attributable to~~ the captain and mate are cumulative.

Hearing item 12 (section 2.9.2): Proposed addition of reporting requirements for Party/Charter vessels:

F. Reporting:

- 1. All trips made in party/charter mode shall be documented, and submitted electronically in SAFIS.**
- 2. All trips shall be documented on board the vessel prior to the end of the fishing trip.**
- 3. All trip reports shall be submitted electronically within 48 hours of the end of the trip.**
- 4. In cases when no party/charter mode trips were made, at least one negative report must be submitted to the Department prior to renewal of license.**

2.11.3 ~~Vessels Fishing~~ Commercially Mode:

- A. Only vessels that are commercially declared may **fish operate** in commercial mode.
- B. A vessel is **fishing operating** in commercial mode whenever the vessel is engaged in the process of taking, harvesting, holding, transporting, loading or off-loading marine species for sale or intended sale.
- C. Vessels **fishing operating** in commercial mode must adhere to all applicable commercial regulations.
- D. Vessels making more than one commercial trip per calendar day are bound by all applicable per-vessel, per-day possession limits.
- E. Vessels making more than one commercial trip per calendar day must have onboard a RI catch and effort logbook or a federal VTR, and the logbooks or

VTRs must be completed prior to the initiation of the second commercial or recreational fishing trip on the same day. An exemption from carrying the RI catch and effort logbook shall be granted for vessels which are operated by licensed captains who are enrolled and currently active participants in the eTrips electronic reporting program. The eTrips report of the first commercial or recreational fishing trip must be entered prior to the initiation of the second commercial or recreational fishing trip on the same day.

- F. A commercially declared vessel, **fishing operating** in commercial mode, may not possess or land more than the per-vessel limit; however, a portion of the catch may be retained for (non-commercial) personal use, provided that the amount of fish retained for personal use must be recorded in the licensee's commercial logbook.
- G. Any vessel **fishing operating** commercially, including any vessel fishing commercially using rod and reel, may utilize, without restriction, any number of unlicensed crew members to assist with any commercial operations.
- H. For all commercial fisheries except shellfish, any number of unlicensed crews may assist in direct commercial harvest operations regardless of the manner, method or contrivance employed, as long as said crew is/are located onboard a commercially declared vessel that is operated by an individual who possesses a valid and proper commercial fishing license and is/are under the direct supervision and responsibility of said properly licensed commercial fisher. With respect to commercial shellfish operations, unlicensed crews may only assist with culling activities and other indirect harvest operations, while said crew is/are located onboard a commercially declared vessel that is operated by an individual who possesses a valid and proper commercial fishing license and is/are under the direct supervision and responsibility of said properly licensed commercial fisher.

2.11.4 Vessels Fishing in More Than One Mode:

- A. On a per-trip basis, a vessel may only **fish operate** in recreational mode, or party/charter mode, or commercial mode. No vessel may **fish operate** in more than one mode during the same trip.
- B. A vessel that is commercially declared, pursuant to § 2.7.8(H) of this Part herein, may **fish operate** in commercial mode during one portion of a calendar day and fish in recreational or party/charter mode during a separate trip on the same day, subject to separate and non-overlapping commercial and recreational, or party/charter, regulations. A vessel that **fishes operates** first commercially must complete their logbook prior to the initiation of the second trip.
- C. Upon boarding or inspection, the captain or operator of a commercially declared vessel must disclose whether the vessel is operating in commercial mode or party/charter mode or recreational mode.

Summary of annual mailings to commercial license holders

1. November 1: By November 1 annually, per statute [RIGL 20-2.1-4\(g\)](#), regular mailing from Office of Licensing regarding expiration of license on 12/31 and need for renewal.
 - Specifies 2/28 renewal deadline;
 - Specifies grace period and fee if 2/28 deadline missed;
 - Specifies that data reporting must be up to date as a condition of license renewal. Provides contact to Marine Fisheries office and describes reporting options.
2. End of November: Mailing from Division of Marine Fisheries to all license holders (1,000 +) deficient in reporting, per regulation 2.7.6(A)(4).
3. Mid-December: Renewal applications mailed from Office of Licensing to all license holders. Not required per regulation or statute.
4. Mid-March: Mailing from Office of Licensing to all current license holders who have not renewed (100 +) notifying of grace period. Not required per regulation or statute. Phone calls attempted to each license holder in addition to mailing.

**RI Department of Environmental
Management**

Marine Fisheries

Public Hearing

September 10, 2018



Proposed amendments to “Part 1 - Definitions and General Provisions”, regarding deletion, amendment and/or addition of 24 terms:

- None of the proposed changes on considered by the Division to be substantive;
- Propose to delete, add, or amend 24 terms:
 - Delete the following terms as obsolete, duplicative and/or otherwise unnecessary: “*Actively fishing; Actively participating; Application deadline; Basic harvest and gear level; Dockside sales endorsement; Full harvest and gear level; Replace; Reporting period; Unreasonable hardship; Vessel declaration; Vessel upgrade*”.
 - Add terms used in RIMFR: “*Beach seine*”.
 - Minor modifications for clarifications: “*Charter and party vessel; Disposition; Exit/entry ratio; Fishery sector; Fish trap; Gear; Incapacity; Lottery; Medical hardship; Person; Seine; Trip level data*”.



Proposed amendments to “Part 2 – Commercial and Recreational Saltwater Fishing Licensing Regulations”:

- Please refer to the public notice for explanations and rationale of all proposals



1. Restricted Finfish Endorsement (section 2.7.1(D)(1))

- Option 1/Status quo: Proposal to maintain 1:1 exit:entry ratio.
- Option 2/IAC proposal: Proposal to modify exit:entry ratio from 1:1 to 1:2.



2. Division proposal to add a due date of “30 days prior to any public hearing on commercial licensing” regarding the public availability of the updated Sector Mgmt. Plan (combined with item 3)(section 2.7.2(A)).

Proposed language:

- A. **Required:** The management controls set forth in ~~§ 2.7.1 of this Part must be based on~~ **these regulations shall be consistent with fisheries** management plans ~~that have been~~ adopted by the Department **pursuant to R.I. Gen. Laws § 20-2.1-9(5)** ~~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.~~ **Such plans shall be updated annually, with draft plans made available for public review a minimum of thirty (30) days prior to any public hearing that addresses commercial licensing.**
- B. **The management controls set forth in these regulations shall also be consistent with fisheries management plans adopted by a federal agency or regional body of competent jurisdiction.**



3. Division proposal to remove language regarding the content and due date for the issuance of an annual report to the General Assembly on the conservation and management of marine fisheries resources (i.e., Sector Management Plans) (combined with item 2)(former section 2.7.4(B)).

Language proposed to be stricken:

~~2.7.4—Annual Report~~

- ~~A.—Content: The Director shall prepare an annual report on the conservation and management of marine fisheries resources for the General Assembly and the citizens of the State. The report will address particularly the status of fish stocks that are considered to be overfished or were so in the preceding year, the status of fisheries management plans and programs, levels of participation by existing license holders, and the availability of new licenses and endorsements. The report will also summarize available data on the value of commercial fishing in the State, and the socio-economic status of the State's fisheries.~~
- ~~B.—Due Date: The annual report on marine fisheries resources shall be issued no later than September 15 for the calendar year preceding.~~



4. Division proposal to remove language regarding the requirement that the Department provide a list of reporting requirements at the time of license issuance or renewal to applicants for commercial fishing or dealer licenses or landing permits.(former section 2.7.6(A)(2)).

Language proposed to be stricken:

2.7.4 Data Reporting

- ~~2.—Applicants for commercial fishing or dealer licenses or landing permits will be provided a list of applicable reporting requirements at the time of license issuance or renewal.~~



5. Division proposal to remove language regarding the requirement that the Department notify license holders of a reporting deficiency via certified mail (former section 2.7.6(A)(4)).

Proposed language:

- a. No application for a license renewal will be accepted from a person who has failed to submit reports in a timely fashion and who has been previously notified, ~~via certified mail~~, regarding the deficiency.



6. Division proposal to broaden the applicability regarding the timeframe for when fishing trips must be documented. Proposal is to re-locate language from the “Paper Catch and Effort Harvester Logbook” section to “Data Reporting” section (section 2.7.4(C)).

- Rationale: Trip reporting is required for all license holders; this language therefore belongs in the Data Reporting section so as to apply more broadly to all license holders.



7. Division proposal to change the timeframe that fishing trips must be documented (section 2.7.4(C)).

- Option #1: Modify language from “Trips must be documented ~~before the start of the next trip~~” to “Trips must be documented prior to landing”.
- Option #2: Modify language from “Trips must be documented ~~before the start of the next trip~~” to “Trips must be documented within three (3) hours of landing”.



8. Division proposal to add reporting due dates (section 2.7.4(E)).

Proposed language:

E. Due dates for the submittal of reports:

1. For fishing activity occurring in the months of January, February, and March: April 15.
2. For fishing activity occurring in the months of April, May, and June: July 15.
3. For fishing activity occurring in the months of July, August, and September: October 15.
4. For fishing activity occurring in the months of October, November, and December: January 15.
5. To renew prior to January 15, harvester reports must be submitted for all of December if renewing in January and up to date in December if renewing in December.



9. Division proposal to remove the requirement that license holders will be notified in writing as to the form of such reports, their content, and the manner in which and frequency with which they are required to be transmitted by December 1 for the following year (section 2.7.6(B)(2)).

Language proposed to be stricken:

2.7.4 Data Reporting

~~2. License holders will be informed in writing as to the form of such reports, their content, and the manner in which and frequency with which they are required to be transmitted by December 1 for the following year.~~



10. Division proposal to amend the date that requires the Department to issue new licenses following the application deadline. Proposal is to change from 15 to 90 days (section 2.7.5(E)(3)).

Proposed language:

E. Issuance of New Licenses and Eligibility:

3. In cases where a limited number of new licenses or endorsements are to be issued, the Department will accept applications until the application deadline set forth under § ~~2.7.7~~ **2.7.5** (C) of this Part, and then issue said licenses or endorsements to eligible applicants within ~~fifteen (15)~~ **ninety (90)** business days following the deadline date. To ensure fairness in these cases, no new licenses or endorsements will be issued before the application deadline date.



11. Proposed change/clarification of procedure regarding the appeal of a license denial due to medical hardship (section 2.7.5(H)).

Rationale:

- As written, language does not accurately describe this process. Proposed changes meant to reflect actual process.
- Deletion of language referencing the “Commercial Licensing Review Board”, which has not met in several years, and was statutorily eliminated 2016.
- Proposal is to sync regs up with statute, and to clarify the appeal process.
- Applications not meeting criteria have always been denied by the Office of Boating Registration and Licensing; no change is proposed.
- Current language indicates that appeals are submitted to the Board c/o the OBRL; however, appeals go directly to AAD, not DEM.
- Final decisions are made by AAD, not DEM.
- Remove AAD requirements from the rule.
- Applicant must still submit appeal to AAD; AAD statute specifies that appeal must be rec'd w/i 30 days of receipt of denial (rule currently specifies 10 days).
- Note: Information required for an appeal is from AAD. This required information is listed in the denial letters sent by OBRL.



12. Proposed addition of reporting requirements for Party/Charter vessels.(section 2.9.2).

Proposed language:

F. Reporting:

1. All trips made in party/charter mode shall be documented, and submitted electronically in SAFIS.
2. All trips shall be documented on board the vessel prior to the end of the fishing trip.
3. All trip reports shall be submitted electronically within 48 hours of the end of the trip.
4. In cases when no party/charter mode trips were made, at least one negative report must be submitted to the Department prior to renewal of license.



End of Slides!





RHODE ISLAND

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

DIVISION OF MARINE FISHERIES

3 Fort Wetherill Road

Jamestown, Rhode Island 02835

SUMMARY OF HEARING COMMENTS

A public hearing was held on **September 10, 2018** at 6:00 PM, URI Narragansett Bay Campus, Corless Auditorium, Narragansett, RI. Seven (7) persons were in attendance. The public comment period began May 18 and ended June 18.

Hearing Officer: *J. McNamee*

DEM staff: *C. Hoefsmit, S. Olszewski, J. Lake, P. Duhamel, Officer M. Schipritt*

RIMFC: *A. Dangelo*

1. Proposed amendment to “Part 1 - Definitions and General Provisions”, to delete, add, or amend 24 terms (section 1.7):
 - Proposed deletion of the following terms as obsolete, duplicative and/or otherwise unnecessary: “Actively fishing; Actively participating; Application deadline; Basic harvest and gear level; Dockside sales endorsement; Full harvest and gear level; Replace; Reporting period; Unreasonable hardship; Vessel declaration; Vessel upgrade”;
 - Proposed addition of new term: “Beach seine”;
 - Proposed minor modification for clarification of the following terms: “Charter and party vessel; Disposition; Exit/entry ratio; Fishery sector; Fish trap; Gear; Incapacity; Lottery; Medical hardship; Person; Seine; Trip level data”.
 - No comments were made or received.
2. Proposed amendment to “Part 2 - Commercial and Recreational Saltwater Fishing Licensing Regulations”:
 - a. Restricted Finfish Endorsement (section 2.7.1(D)(1):
 - Option 1/Status quo: Maintain 1:1 exit:entry ratio for the Restricted Finfish Endorsement.
 - Option 2/IAC proposal: Modify exit:entry ratio for the Restricted Finfish Endorsement from 1:1 to 1:2.
 - K. Booth: In support of option 1 as potential impacts are unknown

- Dave...: In support of option 1.
 - M. Conti/Snug Harbor Marina: In support of option 1 due to difficulty with managing current quotas. In support of Scup being placed in the non-restricted category to provide additional opportunity. Believes the current 1:1 ratio is working well.
 - D. Swanson: In support of option 1.
- b. Division proposal to add a due date of “30 days prior to any public hearing on commercial licensing” regarding the public availability of the updated Sector Mgmt. Plan (combined with item 3)(section 2.7.2(A)):
- No comments were made or received.
- c. Division proposal to remove language regarding the content and due date for the issuance of an annual report to the General Assembly on the conservation and management of marine fisheries resources (i.e., Sector Management Plans)(combined with item 2)(former section 2.7.4(B)):
- No comments were made or received.
- d. Division proposal to remove language regarding the requirement that the Department provide a list of reporting requirements at the time of license issuance or renewal to applicants for commercial fishing or dealer licenses or landing permits (former section 2.7.6(A)(2)):
- No comments were made or received.
- e. Division proposal to remove language regarding the requirement that the Department notify license holders of a reporting deficiency via certified mail (former section 2.7.6(A)(4)):
- K. Booth: Objects to removing this requirement, as certified mail provides proof of delivery.
- f. Division proposal to broaden the applicability regarding the timeframe for when fishing trips must be documented. Proposal is to re-locate language from the “Paper Catch and Effort Harvester Logbook” section to “Data Reporting” section (section 2.7.4(C)):
- No comments were made or received.
- g. Division proposal to change the timeframe that fishing trips must be documented (section 2.7.4(C)):
- Option #1: Modify language from “*before the start of the next trip*” to “prior to landing”;

- Option #2: Modify language from “~~before the start of the next trip~~” to “within three (3) hours of landing”.
 - K. Booth: In support of maintain the current language as is, as proposal is overly burdensome for smaller vessels. Stated the enforcing would be difficult as time of landing is unknown, and that the current language *before the start of the next trip* is clearly measurable.
 - M. Conti: In support of maintain the current language as is. Believes that implementing option 2 would result in increased use of paper as the reporting timeframe is less burdensome.
 - Dave...: In support of maintain the current language as is, as proposal is overly burdensome for smaller vessels. Could support a timeframe greater than 3 hours from the time of landing.

- h. Division proposal to add reporting due dates (section 2.7.4(E)):
 - No comments were made or received.

- i. Division proposal to remove the requirement that license holders will be notified in writing as to the form of reports, their content, and the manner in which and frequency with which they are required to be transmitted by December 1 for the following year (former section 2.7.6(B)(2)):
 - No comments were made or received.

- j. Division proposal to amend the date pertaining to the issuance of licenses following the application deadline. Proposal is to change from fifteen days to ninety days (section 2.7.5(E)(3)):
 - No comments were made or received.

- k. Proposed change/clarification of procedure regarding the appeal of a license denial due to medical hardship (section 2.7.5(H)):
 - K. Booth: Statement made that proposal appears to remove a person’s ability to appeal in cases other than medical hardship. Requested that a review of overall repeal processes be reviewed.

- l. Proposed new section 2.9.2; p. 47: Proposed addition of reporting requirements for Party/Charter vessels.
 - No comments were made or received.



R.I. Party and Charter Boat Association
P.O. Box 171
Wakefield, RI 02880
401-741-5648
www.rifishing.com



President
Vice President
Treasurer
Secretary
Director

Capt. Rick Bellavance
Capt. Steve Anderson
Capt. Andrew D'Angelo
Capt. Paul Johnson
Capt. Nick Butziger

September 20th, 2018

Mr Jason McNamee, Chief
RIDEM Division of Marine Fisheries
3 Ft Wetherill Rd
Jamestown, RI 02835

RE: Public Hearing Item 12 (section 2.9.2). Proposed reporting requirements for Party/Charter vessels.

Mr. McNamee,

On behalf of the 65 Member Captains of the Rhode Island Party and Charter Boat Association (RIPCBA), I offer the following comments relative to the proposed reporting requirements for party/charter vessels.

The RIPCBA supports the collection of timely and accurate catch and effort data from all members of the party/charter sector of the recreational fishery in Rhode Island. We believe the implementation of a log book for all RI party/charter permit holders is long overdue. In addition to a RI party/charter permit, most of our members hold federal permits issued by GARFO and SERO. These Federal Regional Office's have or are working towards implementing electronic vessel trip reports for permit holders under their jurisdiction. We believe it is in the best interest of our industry to support state efforts to do the same. The best way to ensure the accuracy of the catch and effort data collected from the party/charter sector is to collect that data in the same way from all permit holders. All of the species that we fish for are available to party/charter vessels in state waters and a party/charter operator may not need a federal permit to prosecute this fishery, thus not subject to any self-reporting requirements. Collecting data from all state permit holders via an electronic logbook will allow for a better understanding of the entire industries impact on our marine resources.

As you know, our association has concerns about the accuracy of the current data collected through the APAIS dockside survey of our clients. It is our hope that implementing a reporting requirement for every state party/charter permit holder is a step towards more of a census for estimating our catch and effort where captains provide catch and effort data and APAIS surveyors are used to validate the catch and effort data we provide.

Specific to the proposed rule:

1. All trips in party/charter mode shall be documented and submitted electronically in SAFIS.

We support this proposal. All members of the RIPCBA, that are currently mandated to submit eVTR's, utilize the SAFIS system to report and we have found it to be easy to use. There is also no cost for the program and it can be used on mobile devices or home computer.

2. All trips shall be documented on board the vessel prior to the end of the fishing trip.
This seems doable and is consistent with federal reporting requirements, but we suggest clarification. RIDEM should be more specific regarding what will be approved for documenting the trip on board the vessel. Some Captains may choose to submit the report electronically when they get home and they will need to document the trip in some way before landing. Will a captain's personal log be sufficient? Will there be an approved paper log that the captain will use? Who will provide the paper log? SAFIS eTrips will be available on cellphones prior to the 2019 season and we anticipate that this will virtually eliminate the need for paper, but in the interim a solution needs to be clear.
3. All trips shall be submitted electronically within 48 hours of the end of the trip.
This is consistent with GARFO requirements for federal eVTR's and we support keeping the rule consistent with those federal requirements to avoid confusion.
4. In cases where no party/charter mode trips were made, at least one negative report must be submitted to the Department prior to the renewal of license.
We can support this proposal as it will help to ensure reporting compliance by making a permit holder declare they were inactive as opposed to not filing a report. Did Not Fish reports were eliminated from federal reporting by GARFO, but SERO is considering them as part of their eVTR program. We would suggest clarifying how a DNF report will be submitted. (electronically or paper). We would also suggest clarifying with the ACCSP that DNF reports can be submitted via the SAFIS eTrips system, prior to implementing this reporting requirement.

In addition to the above comments specific to the proposed rule, we would suggest that an education and outreach program be defined, and resources allocated to that program. While many party/charter operators already submit reports electronically due to federal requirements, this proposal may be new to state only permit holders. We would also suggest rolling out a new reporting program in the off season and allowing for a roll out period of 3-6 months to allow party/charter permit holders to learn the system and work the reporting requirement into the routine.

We applaud the Department for taking this step to improve catch and effort data collected from the party/charter sector of the recreational fishery in RI. If you have any further questions about our comments, feel free to contact us.

Capt. Rick Bellavance, President
RI Party and Charter Boat Association

Duhamel, Peter (DEM)

From: Kelley, Jacqueline (DEM)
Sent: Wednesday, August 29, 2018 9:29 PM
To: Duhamel, Peter (DEM)
Cc: Kelley, Jacqueline (DEM)
Subject: Comments for proposed regulations 250-90-00-2

Pete-please accept my comments for the proposed regulations 250-90-00-2. I would suggest that the regulations be amended to contain a provision in which, when people are requesting license approvals, renewals, and transfers, an inquiry is made to determine if they owe any money to DEM. Any monies owed to DEM should be paid before the license is approved, renewed, or transferred.

Thank you for your consideration. I would appreciate a reply to my comments as iterated in RIGL 42-35. Thank you.

Get [Outlook for iOS](#)



Rhode Island Marine Fisheries Council

3 Fort Wetherill Road, Jamestown, RI 02835
(401) 423-1923 Fax: (401) 423-1925

Panel Chair:

Christopher Rein

IAC membership:

Robert Mattiucci
Commercial Rod and Reel

Carl Granquist
Jerry Carvalho
Commercial Inshore Trawler

Lanny Dellinger
Commercial Lobster Fishermen

Eric Reid
Seafood Dealer

Michael McGiveney
Comm. Shellfisherman

Robert Smith
Commercial Fish Pots

Steven Anderson
For-hire/charter

Aaron Gerwitz
Commercial Gillnet

Spencer Bode
Commercial Fishing License

Katie Almeida
Seafood Dealer

Vacant
Recreational Fishing

Marine Fisheries staff:

John Lake

Meeting Notice

Industry Advisory Committee (IAC)

Wednesday, August 21, 2018 – 6:00 PM

URI Narragansett Bay Campus
Coastal Institute Building

Hazard Room

South Ferry Road, Narragansett, RI 02835

Agenda

1. **2017 commercial licensing activity - discussion and/or proposals to amend exit/entry ratios for any of the restricted endorsements:**
 - Restricted Finfish
 - Quahog
 - Soft-shell Clam
 - Whelk
2. **Division proposals for amendments to “Part 1 – Definitions and General Provisions” regarding the deletion, amendment and/or addition of terms related to commercial licensing and/or gear.**
3. **Division proposals for amendments to “Part 2 – Commercial and Recreational Saltwater Fishing Licensing Regulations” – September hearing (date tbd):**
 - Proposed addition of a due date for the public availability of the updated Sector Mgmt. Plan (*section 2.7.2(A); p. 7*);
 - Proposed removal of content and due date for the issuance of an annual report to the General Assembly on the conservation and management of marine fisheries resources (i.e., Sector Management Plans) (*former section 2.7.4(B); p. 8*);
 - Proposed removal of requirement that the Department provide a list of reporting requirements at the time of license issuance or renewal to applicants for commercial fishing or dealer licenses or landing permits (*former section 2.7.6(A)(2); p. 9*);
 - Proposed change to requirement regarding the due dates that fishing trips must be documented. Proposal is to change language from “before the start of the next trip” to “prior to landing”, and to re-locate language from

the Paper Catch and Effort Harvester Logbook section to Data Reporting section (proposed new section 2.7.4(D); p. 10);

- Proposed addition of reporting due dates (proposed new section 2.7.4(F); p. 10);
- Proposed removal of requirement that license holders will be notified in writing as to the form of such reports, their content, and the manner in which and frequency with which they are required to be transmitted by December 1 for the following year (former section 2.7.6(B)(2); p. 11);
- Proposed removal of the requirement that the Department be required to issue new licenses within 15 days following the deadline for application submittal (proposed new section 2.7.5(E)(3); p. 18);
- Proposed removal of the requirement that the Department notify license holders of a reporting deficiency via certified mail (proposed new section 2.7.5(E)(3); p. 18);
- Proposed change/clarification of procedure regarding the appeal of a license denial due to medical hardship (proposed new section 2.7.5(H); p. 26);
- Proposed addition of reporting requirements for Party/Charter vessels (proposed new section 2.9.2; p. 45)

4. **Any other matters**

5. **Adjourn**

All RIMFC meetings and workshops are open to the public.

For more information, please contact John Lake at (401) 423-1942.

Posted to Sec. of State 8/10/2018

Industry Advisory Committee

August 21, 2018; 6:00PM

URI Bay Campus, Coastal Institute Building, Hazard Room
218 S Ferry Road, Narragansett, RI 02874

MEETING SUMMARY

Members in Attendance: R. Mattiucci (RM), J. Carvalho (JC), M. McGivney (MM), S. Anderson (SA), S. Bode (SB), K. Almeida (KA), C. Rein (Chair), J. Lake (DEM staff)

The meeting Commenced at 6PM with a quorum. The timeline of regulatory process was explained. Several members had proposals for consideration and requested an earlier licensing workshop in 2019. The 2018 licensing workshop was held May 23, 2018.

- **Exit:entry ratio for the Restricted Finfish endorsement**

J. Lake explained that 15 eligible licenses for restricted finfish were retired in 2017-2018, and that with the current 1:1 ratio, there would therefore be 15 new license opportunities provided for 2019. **Motion made by KA to maintain the 1:1 ratio; 2nd by MM.**

Discussion initiated by KA was centered around concern that the new management measures for Summer Flounder have potential to reduce the commercial allowance granted to RI, and thus a conservative approach is warranted. **Motion passed 3-1 (KA, SA, MM in support; RM opposed; JC, SB abstained)**

An amended motion was then made by RM to change the ratio to 1:2; 2nd by JC. The amended motion was allowed by the chair. JL explained that the proposal to liberalize the ratio to 1:2 would result in 30 new license opportunities for 2019. Discussion by RM about the amendment was centered around a concern that license issuance should not be used to manage the fishery. JC stated that it is very difficult to get into the fishery as a younger fisherman, participants should not have to buy their way in from another entity. The fishing community is aging, with not enough new participants coming in to keep the industry viable. RM stated that he would be willing to share resource to let more people in to the fishery. Motion passed 3-2 in favor (SB, JC, RM in support; SA, MM opposed; KA abstained.)

- **Exit:entry ratio for the Bay Quahog endorsement**

J. Lake explained that 32 eligible licenses for quahog were retired in 2017-2018, and that with the current 1:1 ratio, there would therefore be 33 new license opportunities provided for 2019 (rules require round up to multiples of 3). **Motion made by RM to liberalize ratio from 1:1 to 1:2; 2nd by JC.** Discussion by RM that younger participants are needed in quahog fishery to keep it viable. **Amended motion then made by MM to maintain the 1:1 ratio; 2nd by KA.** MM discussed efforts and opportunities to enlist younger entrants into the

fishery. He cited that proposed upper bay area opening decision has been delayed and there is still concern like last year that latent effort could be an issue if new area is opened. RM did not think latent effort would increase if new area of upper bay was opened. **The amended motion passed 4-2 (MM, KA, SA, SB in support; JC, RM opposed).**

- **Exit:entry ratio for the Soft-shell Clam endorsement**

J. Lake explained that 27 eligible licenses for soft shell clam were retired in 2017-2018. and that with the current 5:1 ratio, there would therefore be 6 new license opportunities provided for 2019 (rules require round up to multiples of 3). **Motion was made by MM to maintain the 5:1 ratio; 2nd by RM.** MM discussed depleted stock status of soft shell clams and that a cautious management approach is warranted instead citing history of reactionary management of soft shell clam. **Motion passed 4-2 (MM, KA, SA, SB in support; JC, RM opposed).**

- **Whelk endorsement**

J. Lake briefly explained to eligibility requirements for the Whelk endorsement. No discussion or recommendations took place.

- **General shellfish license**

The group discussed whether a general shell fishing license should be created when the commercial licensing legislative initiative restarts in 2019. Motion made by JC to combine all shellfish endorsements into one license; 2nd by MM. Motion passed 4-0-2. Motion was made by BM to reconsider; 2nd by JC. The motion passed 4-0-2. Motion made by JC to combine all shellfish endorsements into one single shellfish endorsement; 2nd by SB. The motion passed 4-0-2.

- **Lobster endorsement**

J. Lake explained that under the current ASMFC FMP guidelines no new lobster licenses are currently being issued. **Motion made by SB to allow for lobster endorsement on CFL to be issued; 2nd by JC.** Several members of the group (JC, RM, SB) recommend that RI issue new lobster licenses. This is based on RI's sovereign status and the states ability to manage its own state water fisheries as it sees fit. Younger participants are needed in the fishery and it is unfair that the only avenue to get in to the lobster fishery is to buy somebody out. **The motion passed 4-1-1.**

- **Other Business**

- The group discussed a new proposal to change the upgrade provisions for the student shellfish license. Motion was made by MM to change the upgrade provision for student shellfish license to a CFL with quahog endorsement; to allow upgrade after 1

year with 40 quahog landings; 2nd by SB. Staff explained that the Division of Marine Fisheries is open to the change but cannot promulgate a regulation for this hearing cycle as the deadline for noticing new proposals had passed. J. Lake explained that the matter would be placed in the Division's regulatory queue to address for 2020. The motion passed 5-0-1.

- The group discussed a new proposal to change scup from a restricted species to a non-restricted species in the summer quota period. Motion made by SB to re-classify scup as a non-restricted species in RI state waters during the summer quota period; 2nd by KA. The motion failed to pass. Motion made by JC to table; 2nd by MM.

The meeting adjourned at approximately 8:15

Prepared by J. Lake



Rhode Island Marine Fisheries Council

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

Panel Chair:

Jeff Grant

DEM Coordinator:

Conor McManus

Scientific Advisor:

Dale Leavitt

Membership:

Jeff Gardner

Aquaculture

Bob Rheault

Alternate for J. Gardner

David Ghigliotty

Comm. Bullrake

Mike McGiveney

Comm. Bullrake

Martin McGiveney

Alternate for Mike McGiveney

Gerald Schey

Comm. Bullrake

Bob Bercaw

Comm. Bullrake

Manuel Sousa

Comm. Bullrake

Katie Eagan

Comm. East Bay

Bob Smith

Dealer

Roger Tellier

Recreational Rod & Reel

Richard Pastore

Recreational Rod & Reel

Edward Troiano

Recreational Shellfish

Meeting Notice

Shellfish Advisory Panel

September 5, 2018, 4:30PM

URI Bay Campus Coastal Institute, Large Conference Room

218 S. Ferry Road, Narragansett, RI 02874

AGENDA

1. Review of aquaculture applications sent to Public Notice.
 - a. 2018-04-087, John Wescott, East Passage.
2. Discussion and/or recommendations regarding winter harvest schedules for Greenwich Bay, Bissel Cove, and Bristol Harbor Shellfish Management Areas.
3. Any other matters.

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

For more information please contact Conor McManus at (401) 423-1941.

* Aquaculture applications can be found at

<http://www.crmc.ri.gov/applicationnotices.html>

Posted on August 29, 2018

Shellfish Advisory Panel
September 5, 2018, 4:30PM
URI Bay Campus, Large Conference Room
215 S Ferry Road, Narragansett, RI 02882

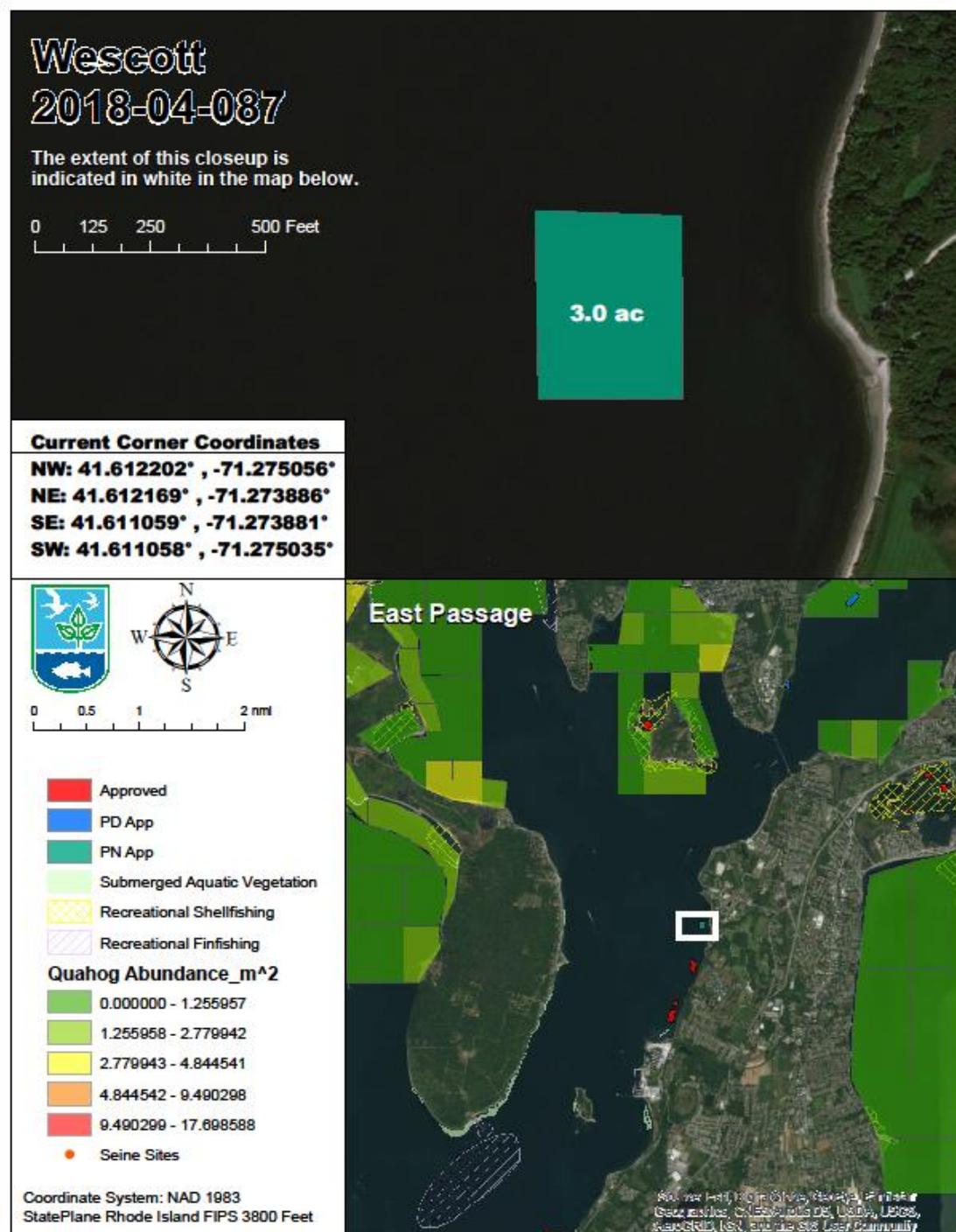
AGENDA

1. Review of Aquaculture Applications sent to Public Notice
 - a. 2018-04-087, Wescott, Portsmouth (East Passage)
2. Discussions on Winter Harvest Schedule for Shellfish Management Areas

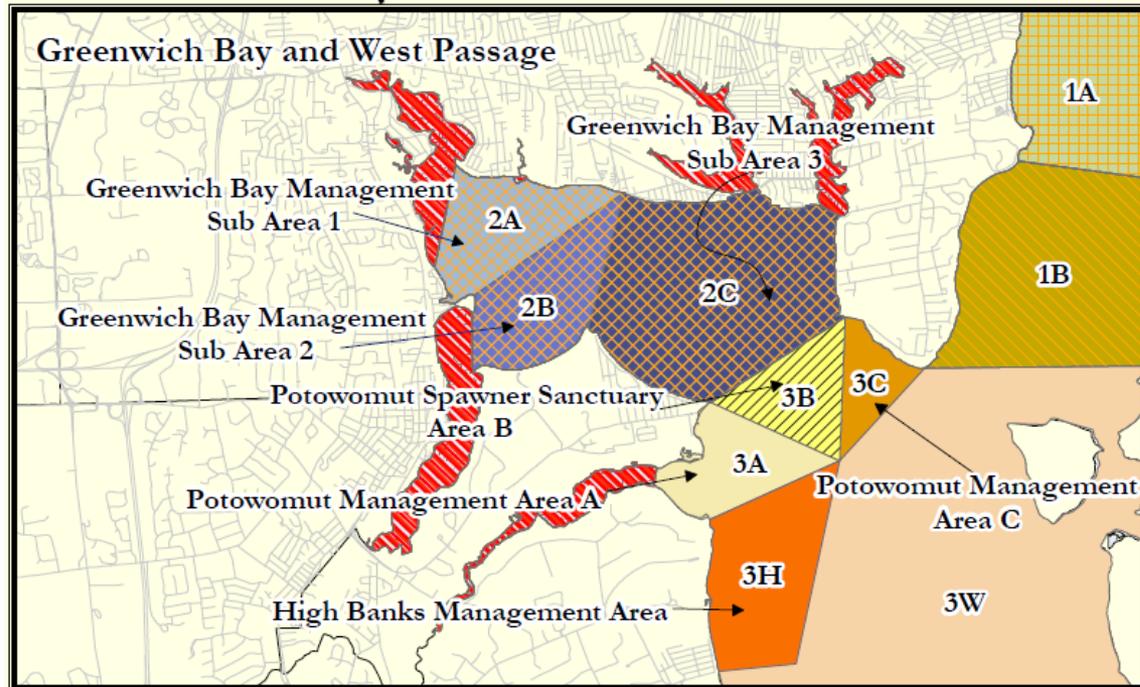
1. Aquaculture Leases

2018-04-087, John Wescott – East Passage

- 3 acre lease for oysters and kelp.
- Farm in Portsmouth, RI.
- Includes bottom cages for oysters and suspended longlines for sugar kelp.
 - 10-20 trawl lines with 12-15 cages per line for oysters
 - 5-10 longlines for kelp



2. Discussions on Winter Harvest Schedule for Shellfish Management Areas: Greenwich Bay Areas 1 and 2



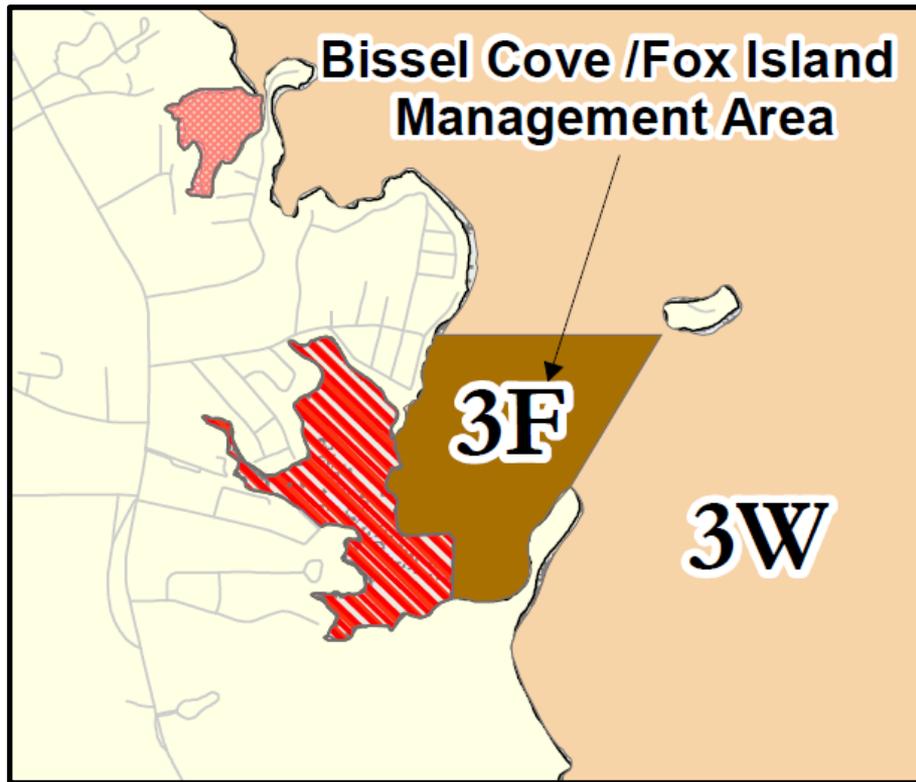
Provisions for Proposal

The schedule for the month of December may include up to 48 hours of permitted shellfishing, spread over any number of days during the month, excluding December 25.

Default

Open 8:00A.M. to 12:00P.M. noon on Mondays, Wednesdays, and Fridays, beginning on the second Wednesday of December and continuing through the last Friday in April, excluding December 25 and January 1 annually.

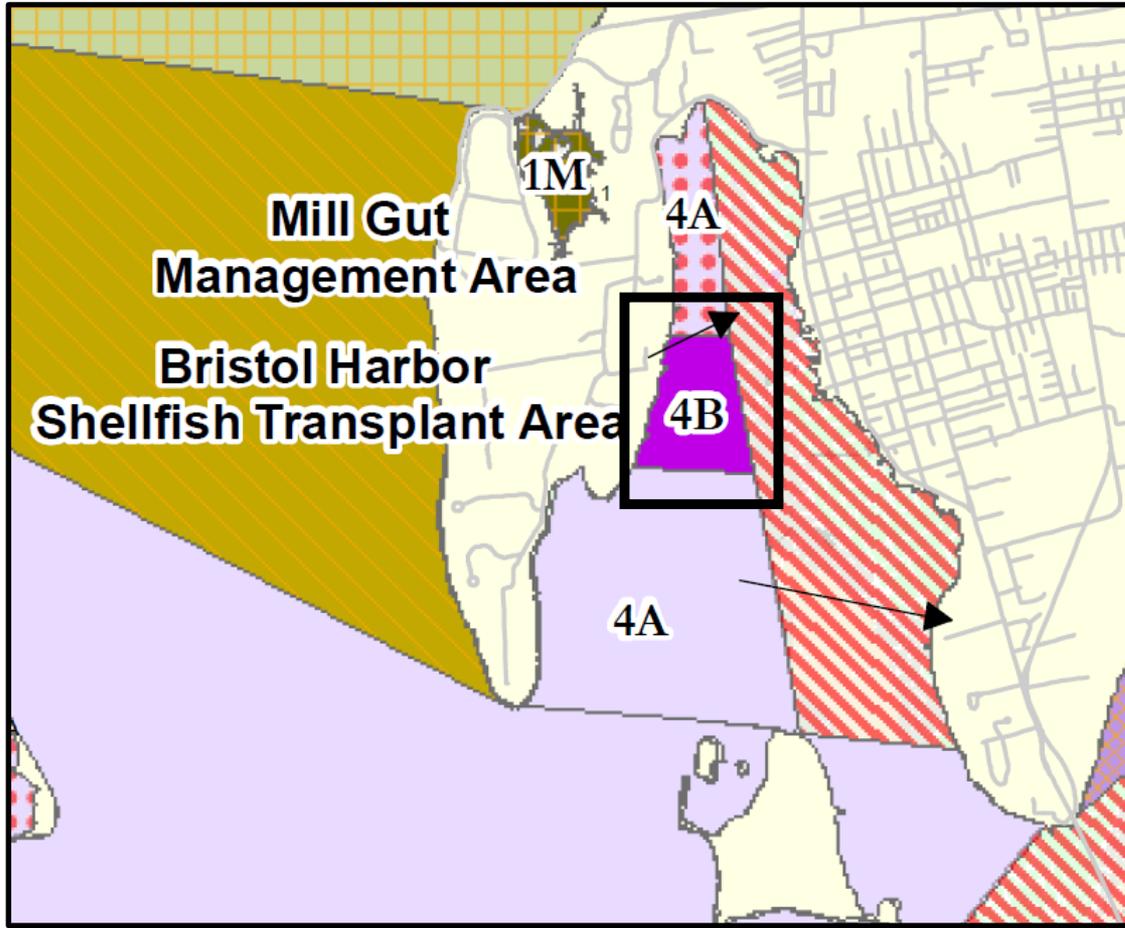
2. Discussions on Winter Harvest Schedule for Shellfish Management Areas: Greenwich Bay Areas 1 and 2



Default

Open 8:00A.M. to 12:00P.M. noon on Mondays, Wednesdays, and Fridays, beginning on the second Wednesday of December and continuing through the end of April, excluding December 25 and January 1 annually.

2. Discussions on Winter Harvest Schedule for Shellfish Management Areas: Greenwich Bay Areas 1 and 2



Default

Open 8:00A.M. to 12:00P.M.
noon on Mondays,
Wednesdays, and Fridays,
beginning on the second
Wednesday of December and
continuing through the end of
April, excluding December 25
and January 1 annually.

Shellfish Advisory Panel

September 5, 2018; 4:30PM

URI Bay Campus, Coastal Institute Building, Large Conference Room
218 S Ferry Road, Narragansett, RI 02874

MEETING SUMMARY

RIMFC members: J. Grant (Chair)

DEM: C. McManus;

Scientific Advisor: D Leavitt;

SAP members: R. Tellier; K. Eagan; D. Ghigliotty;

CRMC: D. Beutel;

Public: J. Wescott; I. Changsut;

1. Review of aquaculture lease applications sent to public notice by CRMC:

- 2018-04-087, John Wescott, East Passage: *D. Beutel* provided a brief overview of the proposal. *D. Beutel* indicated there was no eel grass at the site and low quahog densities in the site footprint, but there was an objection based on the whelk fishery concerns from Ken Murgo. *K. Egan* expressed similar concerns for whelk fishers being able to fish in this location. *R. Tellier* asked about navigation concerns. *D. Ghigliotty* asked *K. Egan* about potential concerns for quahog fishing in the site, which seemed to be minimal. **Motion made by *K. Eagan* to recommend objection to the application; 2nd by *D. Ghigliotty*. The motion passed 3-0.**

2. Discussion and/or recommendations regarding winter harvest schedules for Greenwich Bay, Bissel Cove, and Bristol Harbor Shellfish Management Areas:

- Greenwich Bay sub-areas 1 and 2: No recommendations were provided for a change to the harvest schedule for Greenwich Bay sub-areas 1 and 2.
- Bissel Cove: No recommendations were provided for any changes to the harvest schedule for Bissel Cove/Fox Is. Shellfish Management Area.
- Bristol Harbor: *K. Eagan* recommended that this area be opened from 8:00AM to noon from January 2 to February 1, and then opened from sunrise to sunset seven days a week from February 1 through the last day of April.

Prepared by: C. McManus



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

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

PUBLIC NOTICE

File Number: 2018-04-087 Date: May 16, 2018

This office has under consideration the application of:

John Wescott
 2 State Street
 Plainville, MA 02762

for a State of Rhode Island Assent to create and maintain: a three acre oyster and kelp farm using bottom cages for oysters and suspending longlines for the sugar kelp

Project Location:	East Passage of Narragansett Bay
City/Town:	Portsmouth
Plat/Lot:	/
Waterway:	East Passage of Narragansett Bay

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

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

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

If you desire to protest, you must attend the scheduled hearing and give sworn testimony. A notice of the time and place of such hearing will be furnished you as soon as possible after receipt of your request for hearing. If you desire to request a hearing, to receive consideration, it should be in writing (**with your correct mailing address, e-mail address and valid contact number**) and be received at this office on or before June 15, 2018.



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

FILE COPY
 (401) 783-5570
 Fax (401) 783-2069

APPLICATION FOR STATE ASSENT

To perform work regulated by the provisions of Chapter 279 of the Public Laws of 1971 Amended.

File No. (CRMC use only): <u>2018 04 087</u>	
Project Location: _____	
Number	Street
City/Town	
Owner's Name: <u>John Wescott</u>	Plat: _____
	Lot(s): _____
Mailing Address: <u>2 State St. Plainville MA 02762</u>	Res. Tel. #: _____
	Bus. Tel. #: _____
Contractor RI Lic. # _____	Address: _____
	Tel. No. _____
Designer: <u>John Wescott</u>	Address: <u>2 state st Plainville MA 02762</u>
	Tel. No. _____
Waterway: <u>east passage Narragansett Bay</u>	Est. Project Cost: <u>\$15,000</u>
	Fee/Costs: <u>\$250.00</u>
Description of work proposed (a brief description of all elements of work <u>MUST</u> be included here, additional sheets may be attached): <p style="font-size: 1.2em; color: blue;">An Aquaculture farm with the intent to grow oysters in a bag and cage system as well as keep on a long line system. Details are attached and outline in binder.</p>	

Have you or any previous owner filed an application for and/or received an assent for any activity on this property? (If so please provide the file and/or assent numbers): N/A

Is this site within a designated historic district? YES NO

Is this application being submitted in response to a coastal violation? YES NO

If YES, you must indicate NOV or C&D Number: N/A

Name and Addresses of adjacent property owners whose property adjoins the project site. (Accurate addresses will insure proper notification. Improper addresses will result in an increase in review time.)

N/A

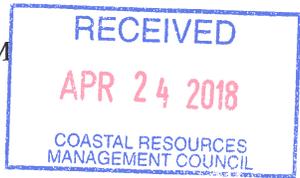
STORMTOOLS (<http://www.beachsamp.org/resources/stormtools/>) is a planning tool to help applicants evaluate the impacts of sea level rise and storm surge on their projects. The Council encourages applicants to use STORMTOOLS to help them understand the risk that may be present at their site and make appropriate adjustments to the project design.

NOTE: The applicant acknowledges by evidence of their signature that they have reviewed the Rhode Island Coastal Resources Management Program, and have, where possible, adhered to the policies and standards of the program. Where variances or special exceptions are requested by the applicant, the applicant will be prepared to meet and present testimony on the criteria and burdens of proof for each of these relief provisions. The applicant also acknowledges by evidence of their signature that to the best of their knowledge the information contained in the application is true and valid. If the information provided to the CRMC for this review is inaccurate or did not reveal all necessary information or data, then the permit granted under this application may be found to be null and void. Applicant requires that as a condition to the granting of this assent, members of the CRMC or its staff shall have access to the applicant's property to make on-site inspections to insure compliance with the assent. This application is made under oath and subject to the penalties of perjury.

08/04

Owner's Signature (sign and print)

PLEASE REVIEW REVERSE SIDE OF APPLICATION FORM



Application for
Rhode Island
Aquaculture Lease

John Wescott

jwescottiv@gmail.com

401-450-4228



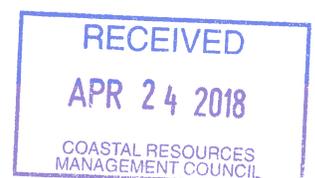
Application for Aquaculture Lease

Applicant: John Wescott

Date: 4/19/18

Table of Contents

Description of Work Proposed.....Page 2
Operational Plan.....Page 3-6
Response to Section 300.1.....Page 7-10
Site Plan and Gear Layout for Oyster/Kelp Farm..Page 11-14
Diagram and Photos of Oyster Equipment...Page 15-21
Diagram of Kelp Equipment and anchors...Page 22,23
Location Map, Photos and Depth.....Page 24-28



Description of Work Proposed

- I will use a bag and cage grow out method for oysters and a suspended long line system for kelp.
- There will be 10-20 trawl lines with 12-15 cages per trawl line for the oysters and 5-10 long lines for the kelp. During growth of kelp I will consolidate the oysters to 10 trawl lines.
- I will employ markers (lobster buoys) at each end of the trawl lines for the oysters and every 100 feet on the long lines for the kelp that will act as markers as well as suspension floats for the kelp.
- I will tend the farm with a 20' - 25' skiff with a similar set up as a lobster boat.
- The corners of the farm site will be marked with four corner buoys, placed and designed according to CRMC specifications.
- The water depth will vary from 7 feet at low tide to 11 feet at high tide at the closest edge to shore to 20 feet at low tide to 24 feet at high tide at the farthest edge from shore.



Operational Plan

- **Name and mailing address of individual responsible for the aquaculture operation and activity.**

1. Name: John Wescott
2. Address: 2 State St. Plainville, Massachusetts 02762

- **Type of Facility**

Commercial Site

- **Location of facility**

1. Town: Portsmouth, RI
2. Water Body: East Passage of Narragansett Bay
3. Lat/Long coordinates of facility:

NE corner: Latitude 41.612166 Longitude -71.273838

SE corner: Latitude 41.611059 Longitude -71.273881

NW corner: Latitude 41.612182 Longitude -71.275061

SW corner: Latitude 41.611011 Longitude -71.275039

- **Identification of species of shellfish**

The proposed farm is for the aquaculture of Oysters and Kelp. The applicant will follow Biosecurity Board seed protocols.



Operational Plan continued

- **Seed**

Oysters:

1. First two years in operation I will buy ¾" to 1" seed from a New England nursery. Prospective nursery sources consist of Peter Sebring, Dave Roebuck and Perry Raso.
2. Following purchase of seed, seed will be placed into 6 millimeter bags and allowed to grow out 18-30 months.
3. Seed will be purchased mid-summer, split once in the fall of that year and again the spring of the following year.
4. At the time of the spring split the oysters will then be placed into 9 millimeter to 14 millimeter bags to finish their grow out.

Kelp:

1. To accommodate the kelp I will consolidate the oysters to 10 rows making room on the lease for the long line system.
2. I will acquire sporophytes from a New England nursery.
3. After purchase of sporophytes following proper transport protocol, I will transfer them to the long line system to grow out.
4. This will be done in early November depending on weather conditions, air and water temperature.

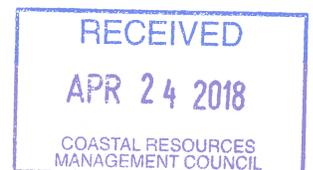


Operational Plan continued

- Harvest

Oysters

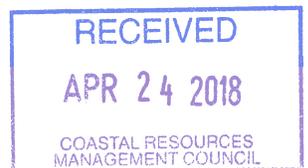
1. The oysters will be periodically cleaned.
2. The bags will be brought to the surface, swapped out with clean used, dry bags.
3. Dirty bags will be placed in the sun to for at least a week or more to dry before cleaning.
4. Cages will be cleaned and reused each time the bags are brought to the surface. Fouling will be removed by hand scrapping and brushing. Fouling from the cages will fall back into the water and will be dispersed by the tide.
5. I expect to tend the farm 2 – 5 days per week depending on the time of year.
6. I expect to start the work day in the early morning and end in the mid-afternoon, approximately 6 -10 hours per work day. Due to wintering waterfowl, I will adapt my winter work day hours to between the hours of 10:00am and 2:00pm.
7. I plan to have one trawl line with cages designated to hold adults.
8. All animals that are worked and ready to be sold will be placed in these designated cages.
9. At the time I harvest animals to be sold they will be retrieved from these designated cages and I will follow the current Rhode Island vibrio protocol.
10. There will be ice and a cooler on the boat to store animals prior to sale.
11. I expect to sell to two or three Rhode Island licensed wholesalers and dealers.



Harvest continued

Kelp:

1. Harvest of Kelp will be during the harvest season, November 1st to May 1st.
2. A section of the line will be brought aboard; the kelp will be cut at the point where the meristem joins the stipe.
3. The kelp will then be placed into a cooler, the line placed back into the water and the boat will be moved further down the line to the next section to be harvested.
4. I expect to tend the farm 1 – 3 days per week depending on the time of year.
5. I expect to start the work day in the early morning and end in the mid-afternoon, approximately 6 -10 hours per work day. Due to wintering waterfowl, I will adapt my winter work day hours to between the hours of 10:00am and 2:00pm.
6. At the time I harvest kelp to be sold I will follow the current Rhode Island vibrio protocol.
7. I expect to sell to two or three licensed wholesalers and dealers.



Response to items Section 300.1

(1) demonstrate the need for the proposed activity or alteration;

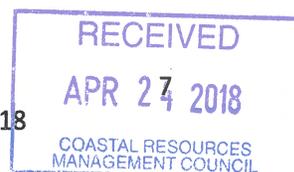
An oyster/kelp farm located in the proposed location will improve and expand the Rhode Island aquaculture industry by supplementing the yields of shellfish food products. The local water way for the proposed farm will benefit from the oysters filter feeding and kelp reducing CO₂ and acidity of the water thus improving the water quality for other marine life.

(2) demonstrate that all applicable local zoning ordinances, building codes, flood hazard standards, and all safety codes, fire codes, and environmental requirements have or will be met; local approvals are required for activities as specifically prescribed for nontidal portions of a project in Sections 300.2, 300.3, 300.6, 300.8, 300.9, 300.11, 300.13, 300.15 and 300.17; for projects on state land, the state building official, for the purposes of this section, is the building official,

Through this application process all applicable local zoning ordinances, building codes, flood hazard standards and all safety codes, fire codes and environmental requirements have or will be met prior to implementation and/or seeding of and/or harvest of proposed oyster/kelp farm.

(3) describe the boundaries of the coastal waters and land area that are anticipated to be affected;

The boundaries of the coastal waters in the proposed area are outlined as follows: North East corner, Latitude: 41.612166, Longitude: -71.273838, South East corner, Latitude: 41.611059, Longitude: -71.273881, North West corner, Latitude: 41.612182, Longitude: -71.275061, and South West corner, Latitude: 41.611011, Longitude: -71.275039. See map on page 11 of application. The Easterly boundary of the proposed farm will be approximately 300 feet facing West off the Westerly coast of Portsmouth Rhode Island into the East Passage of Narragansett Bay and extending approximately 300 feet into the East Passage of Narragansett Bay. There is no commercial or residential development that will be affected by the proposed site.



Response to items Section 300.1 continued

(4) demonstrate that the alteration or activity will not result in significant impacts on erosion and/or deposition processes along the shore and in tidal waters.

The alteration and activity of the proposed farm will not result in significant negative impacts on erosion and/or deposition processes along the shore and tidal waters.

(5) demonstrate that the alteration or activity will not result in significant impacts on the abundance and diversity of plant and animal life.

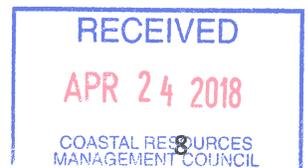
The alteration and activity of the proposed farm will not result in significant negative impacts on the abundance and diversity of plant and animal life. The proposed farm could improve on the existing abundance and diversity of plant and animal life by acting as a new, protective habitat in the area.

(6) demonstrate that the alteration will not unreasonably interfere with, impair, or significantly impact existing public access to, or use of, tidal waters and/or the shore;

The alteration and activity of the proposed farm will not unreasonably interfere with, impair, or significantly impact existing public access to, or use of, tidal waters and/or the shore. Activities such as but not limited to; boating, swimming, jet skis and kayaks will be able to pass through the lease unimpeded provided the marker buoys are avoided.

(7) demonstrate that the alteration will not result in significant impacts to water circulation, flushing, turbidity, and sedimentation;

The alteration of the proposed farm will not result in significant impacts to water circulation, flushing, turbidity, and sedimentation as the gear used is not of a size that would interfere with circulation, flushing, turbidity, and sedimentation.



Response to items Section 300.1 continued

(8) demonstrate that there will be no significant deterioration in the quality of the water in the immediate vicinity as defined by DEM;

There will be no significant deterioration of water quality of the water in the immediate vicinity of the proposed farm as defined by the Rhode Island DEM. To the contrary, the animals and kelp will promote cleaner water quality as the oysters are filter feeders and the kelp remove CO₂ and reduce water acidity.

(9) demonstrate that the alteration or activity will not result in significant impacts to areas of historic and archaeological significance;

The alteration and activity of the proposed farm will not result in significant impact to areas of historic and archeological significance. According to my research and as far as I know there are no historic and/or archeological sites on or near the proposed location and if discovered I am willing to relocate to accommodate the significance of our state and countries history.

(10) demonstrate that the alteration or activity will not result in significant conflicts with water-dependent uses and activities such as recreational boating, fishing, swimming, navigation, and commerce, and;

The alteration and activity of the proposed farm will not result in significant conflicts with water dependent uses such as recreational boating, fishing, swimming navigation and commerce. The proposed farm will be open, passable and accessible to recreation and commercial uses. All marker buoys will be clearly marked and should be avoided; however, the area will be open to navigation.



Response to items Section 300.1 continued

(11) demonstrate that measures have been taken to minimize any adverse scenic impact (see Section 330). Each topic shall be addressed in writing. Additional requirements are listed for specific Category B activities and alterations in the sections that follow.

There will be minimal adverse scenic impacts according to those outlined in section 330. All equipment will be under water unless I am working and will be returned to the water at the time I am finished working except for the marker buoys which will have a very minimal aesthetic impact on the water's surface.



John Wescott 401 450 4228

A
LAT: 41.612182
LONG: -71.275061

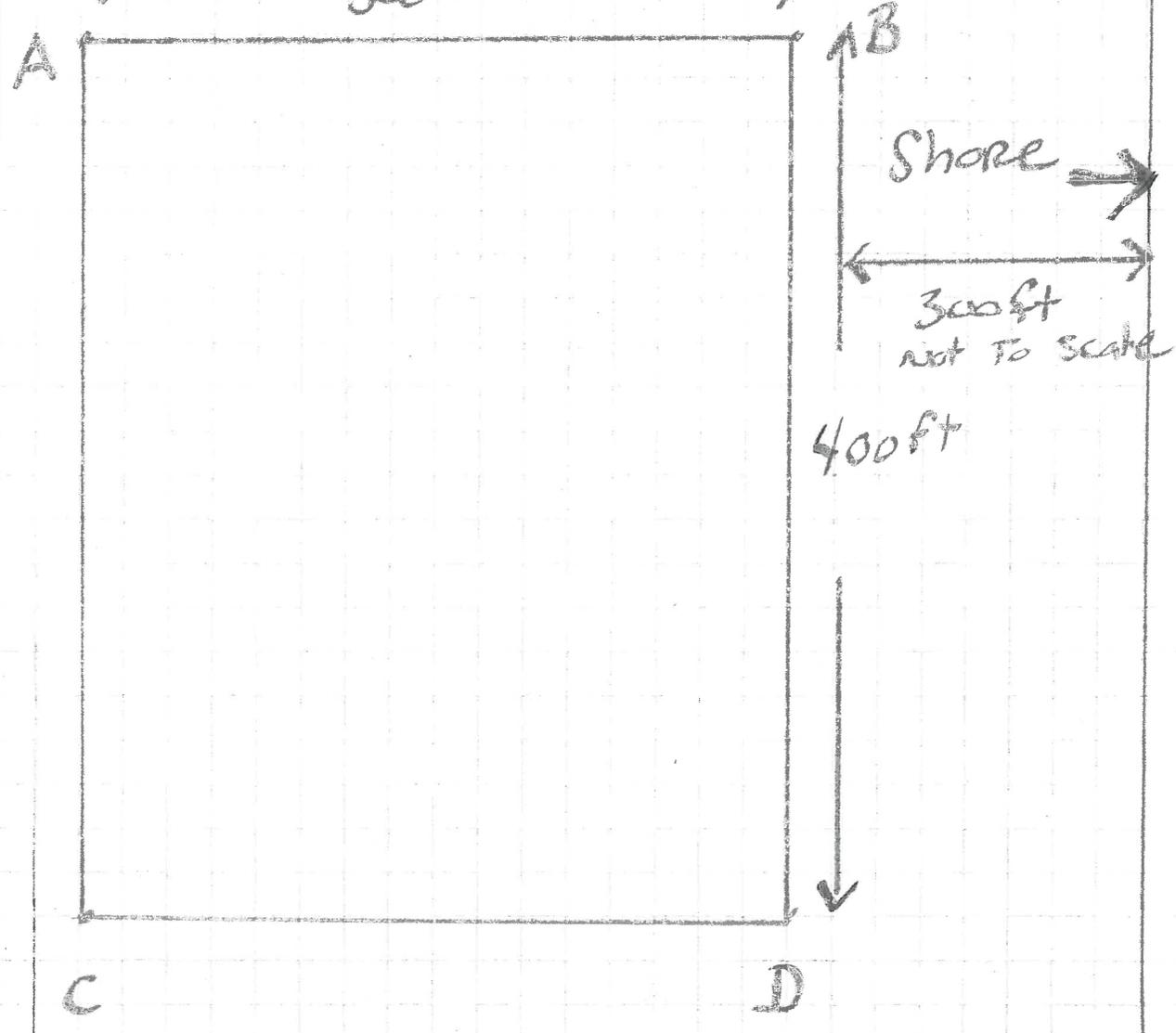
B
LAT: 41.612166
LONG: -71.273838

C
LAT: 41.611011
LONG: -71.275039
← 300 ft →

D
LAT: 41.611059
LONG: -71.273881

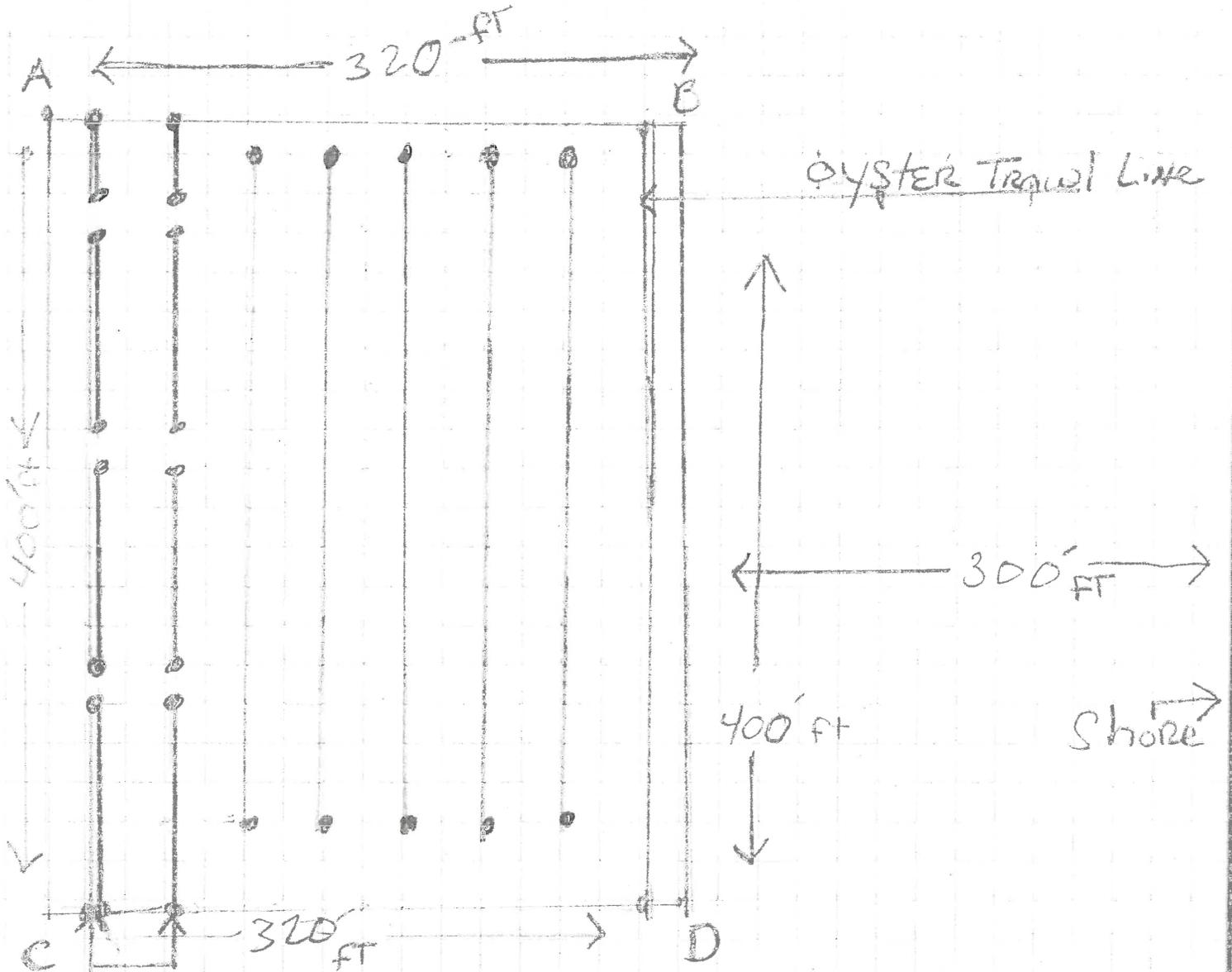
1 SE
= 20'

↑
N



RECEIVED
 APR 24 2018
 COASTAL RESOURCES
 MANAGEMENT COUNCIL

pg 11



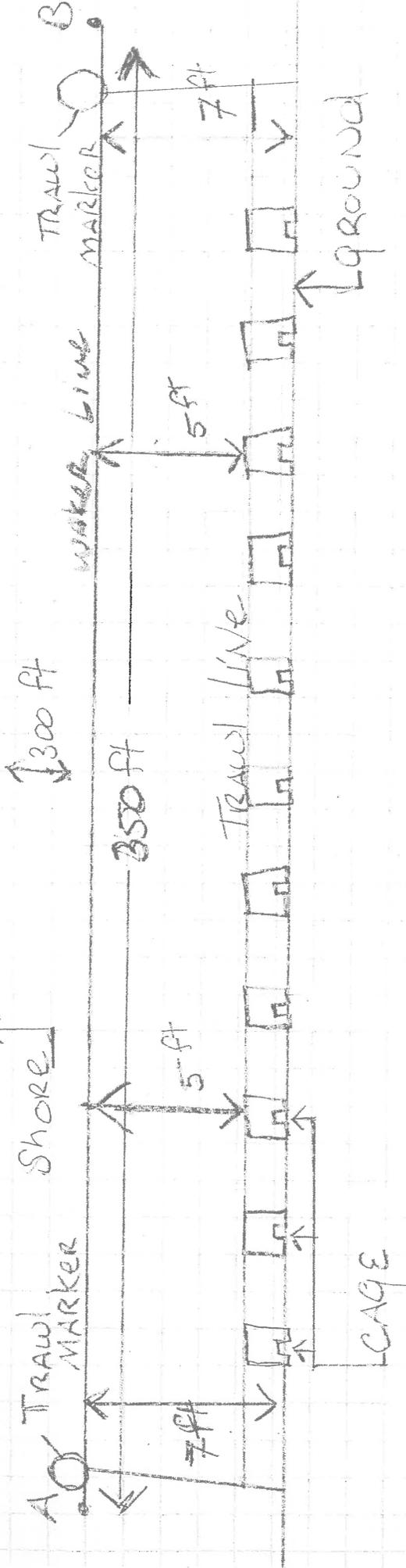
Kelp Longline

RECEIVED
APR 24 2018
COASTAL RESOURCES
MANAGEMENT COUNCIL

Kelp Long Line AND Oyster Trawl Line

(John Wescott 4014504228)

View from West



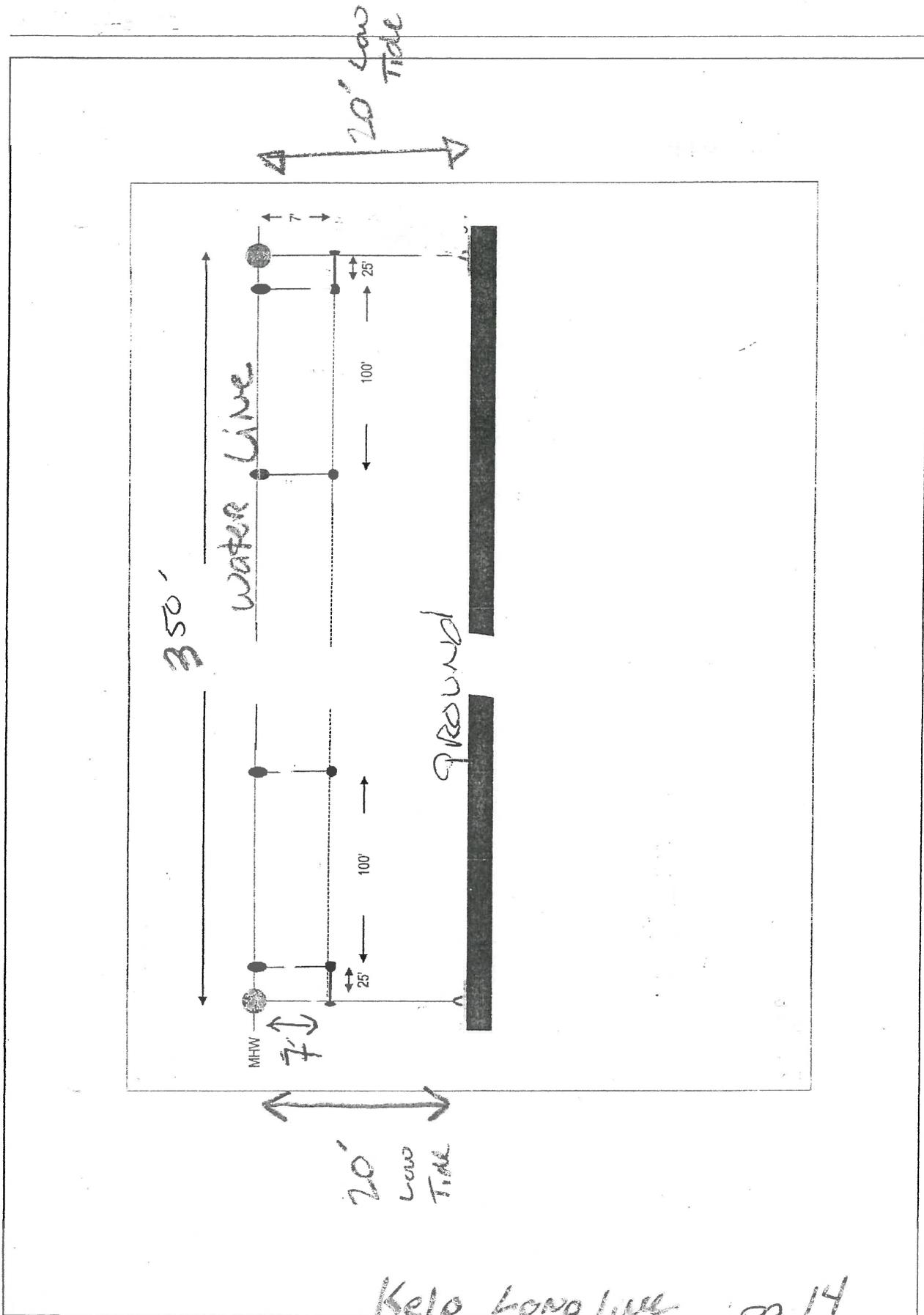
A: is 7' at Low Tide with a 5' depth from Top of cage

B: is 7' at Low Tide with a 5' depth from Top of cage

p9 13

RECEIVED
 APR 24 2018
 COASTAL RESOURCES
 MANAGEMENT COUNCIL

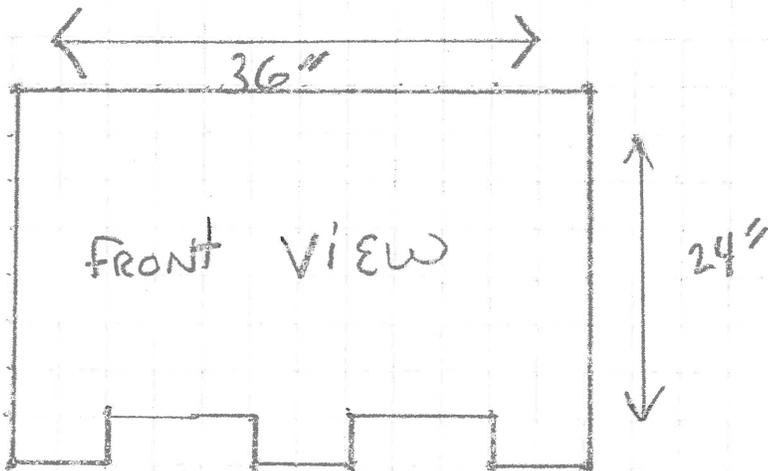
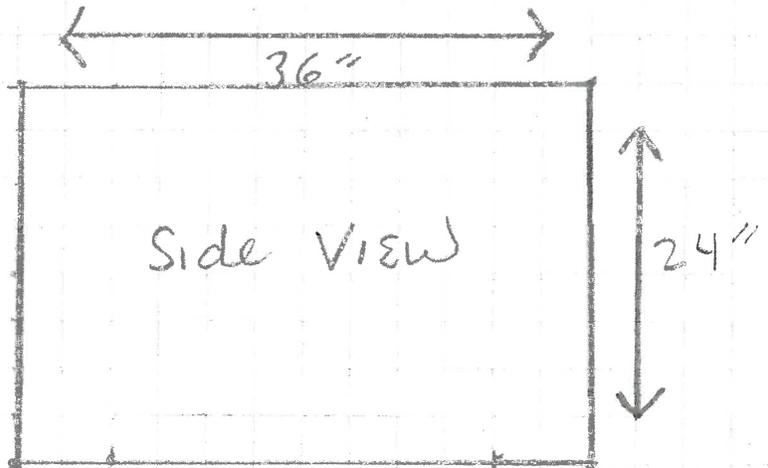
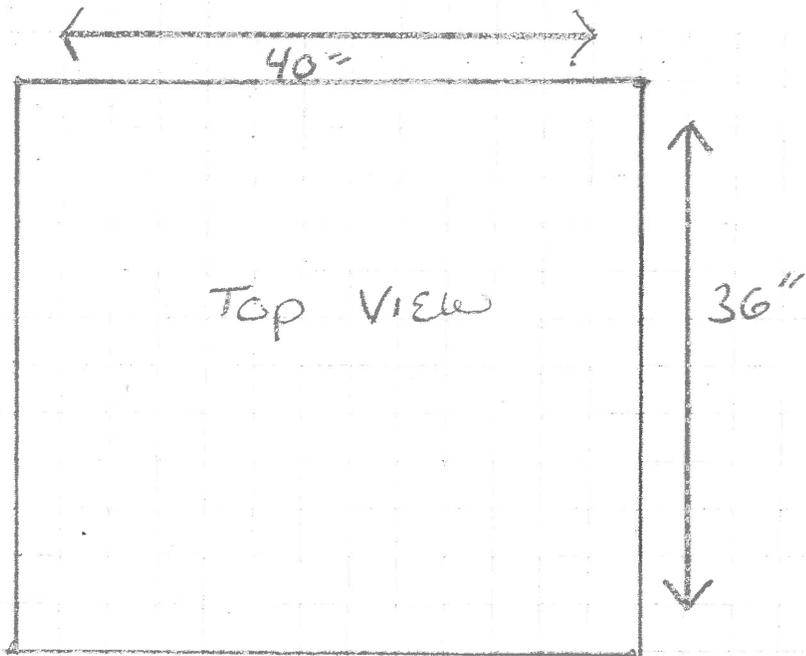
Cage Placement Diagram



Kelp Longline pg 14

RECEIVED
 APR 24 2018
 COASTAL RESOURCES
 MANAGEMENT COUNCIL

180° =
3"

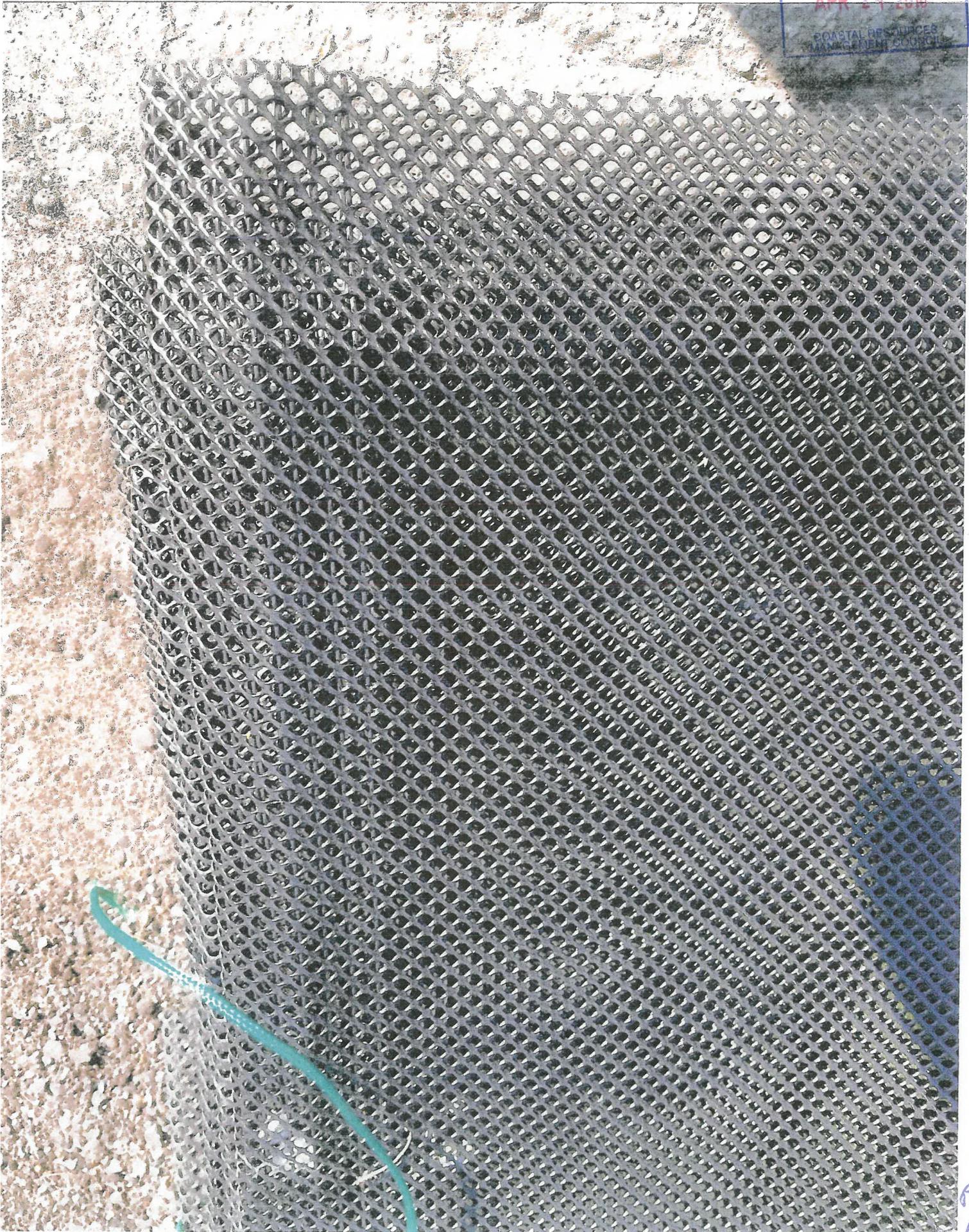


CAGE DIAGRAM

RECEIVED
APR 24 2018
COASTAL RESOURCES
MANAGEMENT COUNCIL

PA15

RECEIVED
APR 24 2018
COASTAL RESOURCES
MANAGEMENT COUNCIL



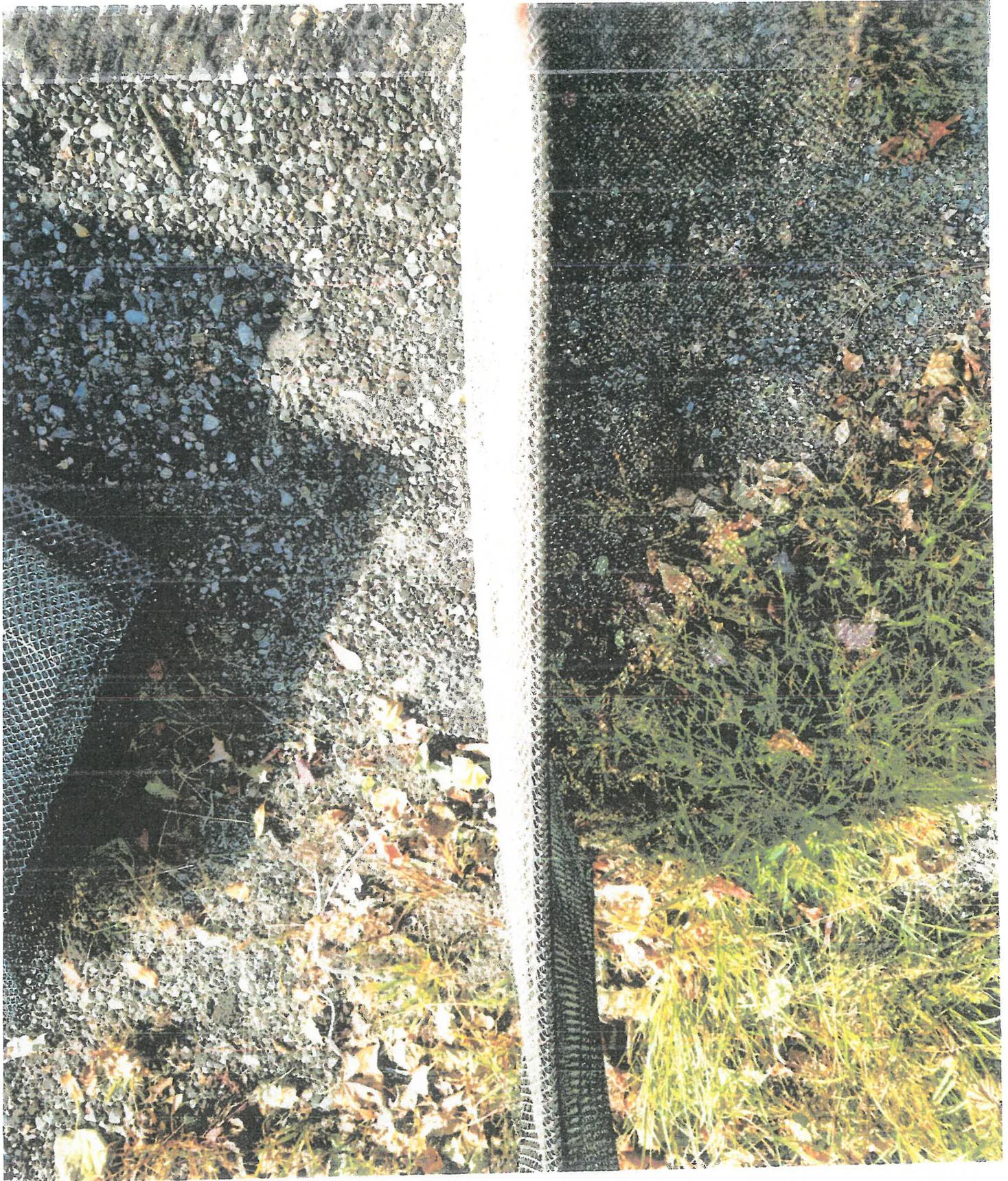
89
16

RECEIVED
APR 24 2018

COSTAL RESOURCES
MANAGEMENT BOARD

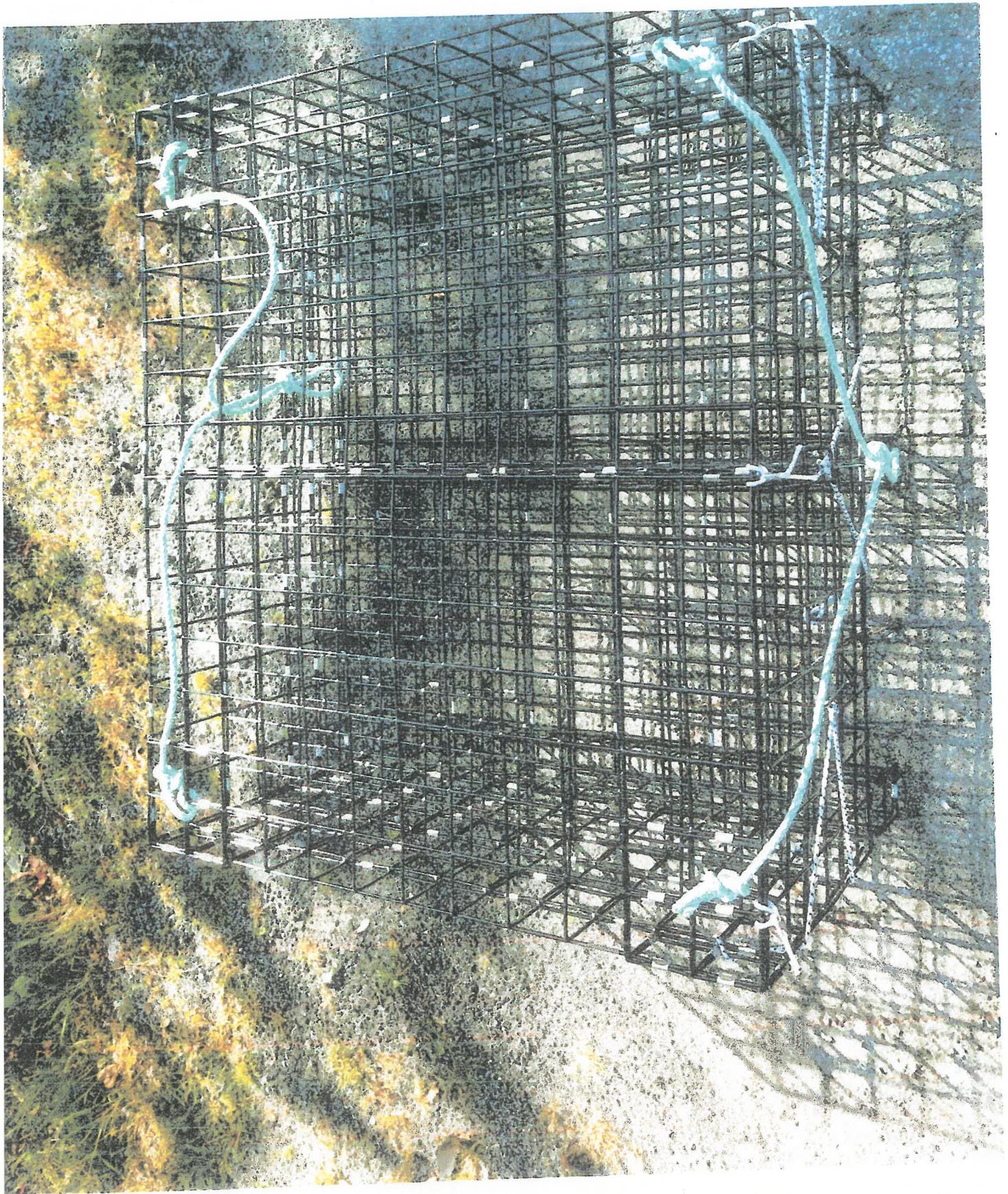


pg 17



RECEIVED
APR 24 2018
COASTAL RESOURCES
MANAGEMENT COUNCIL

pg 18



RECEIVED
APR 24 2018
COASTAL RESOURCES
MANAGEMENT COUNCIL

89 19

RECEIVED
APR 24 2018
COASTAL RESOURCES
MANAGEMENT COUNCIL

pg 20



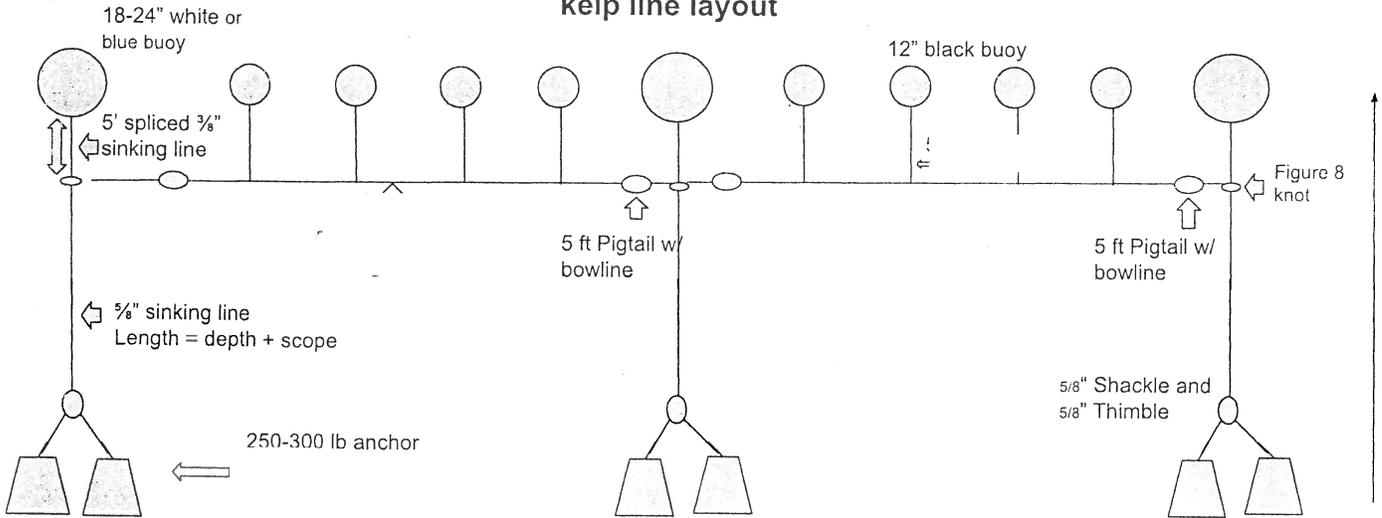


RECEIVED
APR 24 2018
COASTAL RESOURCES
MANAGEMENT COUNCIL

89 21

100'

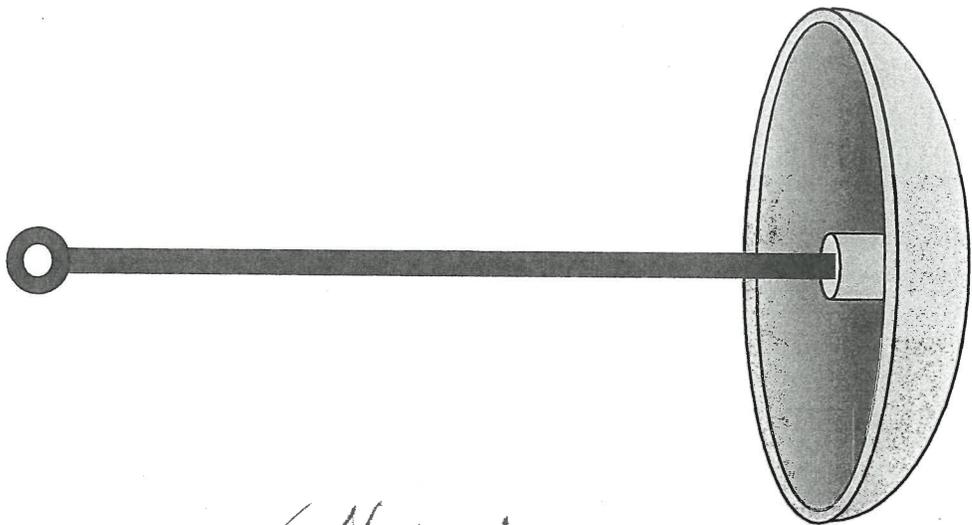
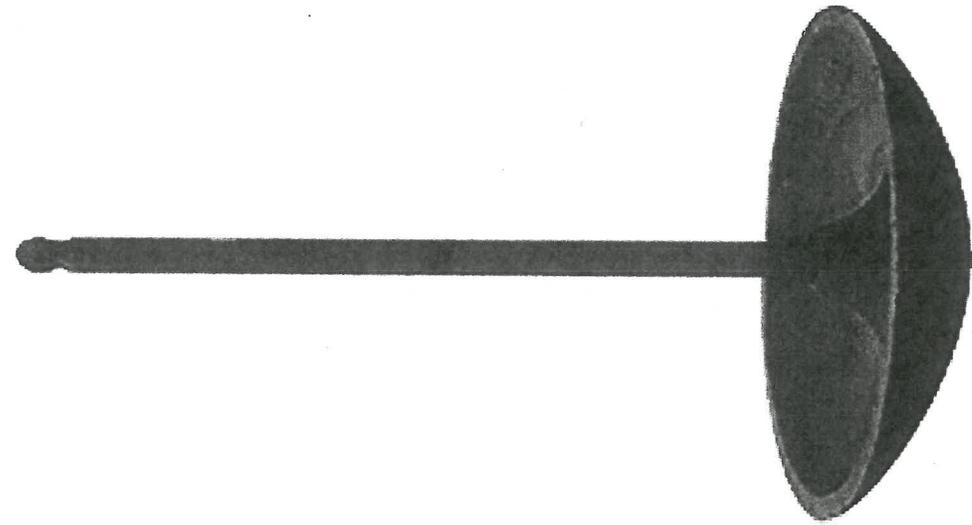
kelp line layout



RECEIVED
APR 24 2018
COASTAL RESOURCES
MANAGEMENT COUNCIL

pg 22

30m Anchor



64 inch

Insert Dimensions

34 inch

Insert Dimensions

22 69

RECEIVED
APR 24 2018
COASTAL RESOURCES
MANAGEMENT COUNCIL



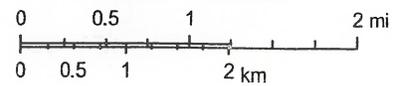
3/3/2018, 8:56:52 AM

1:72,224

Areas

- Override 1
- Aquaculture Area
- SAV 2016
- SAV 2012

- SAV 2009
- SAV 2006
- Red: Red
- Green: Green
- Blue: Blue



RECEIVED
APR 24 2018
 COASTAL RESOURCES
 MANAGEMENT COUNCIL

pg 24



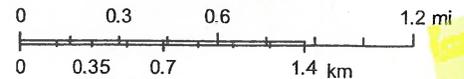


3/3/2018, 8:51:58 AM

Areas

- SAV 2009
- Override 1
- SAV 2006
- Aquaculture Area
- Red: Red
- Green: Green
- SAV 2016
- Blue: Blue
- SAV 2012

1:36,112



pg 25

RECEIVED
APR 24 2018
 COASTAL RESOURCES
 MANAGEMENT COUNCIL

Esri, HERE, Garmin, © OpenStreetMap contributors, and the GIS user community
 Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community
 Division of Fish & Wildlife / Marine Fisheries / Julia Livermore

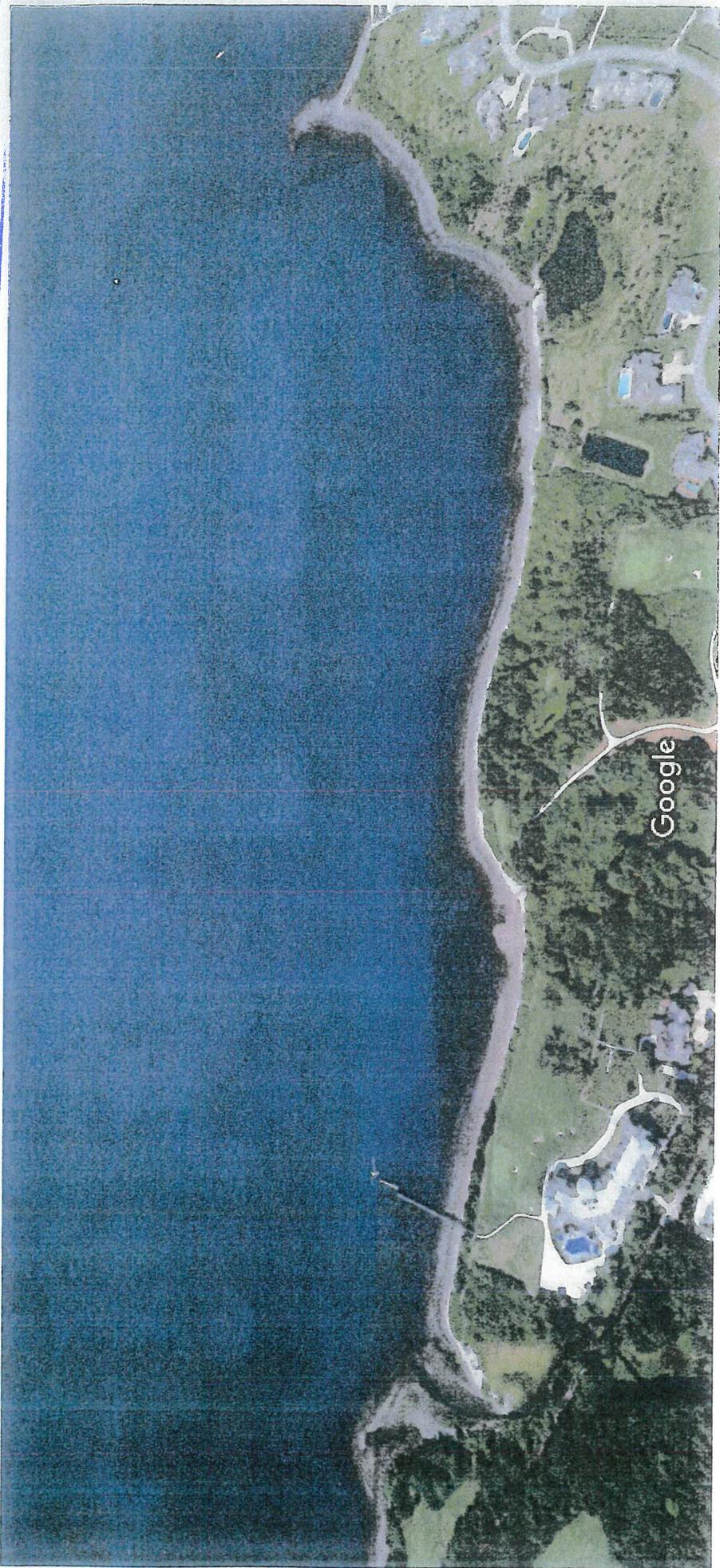
Applicant

Division of Fish & Wildlife / Marine Fisheries / Julia Livermore | Esri, HERE, Garmin | USDA FSA |



RECEIVED
 APR 24 2018
 COASTAL RESOURCES
 MANAGEMENT COUNCIL

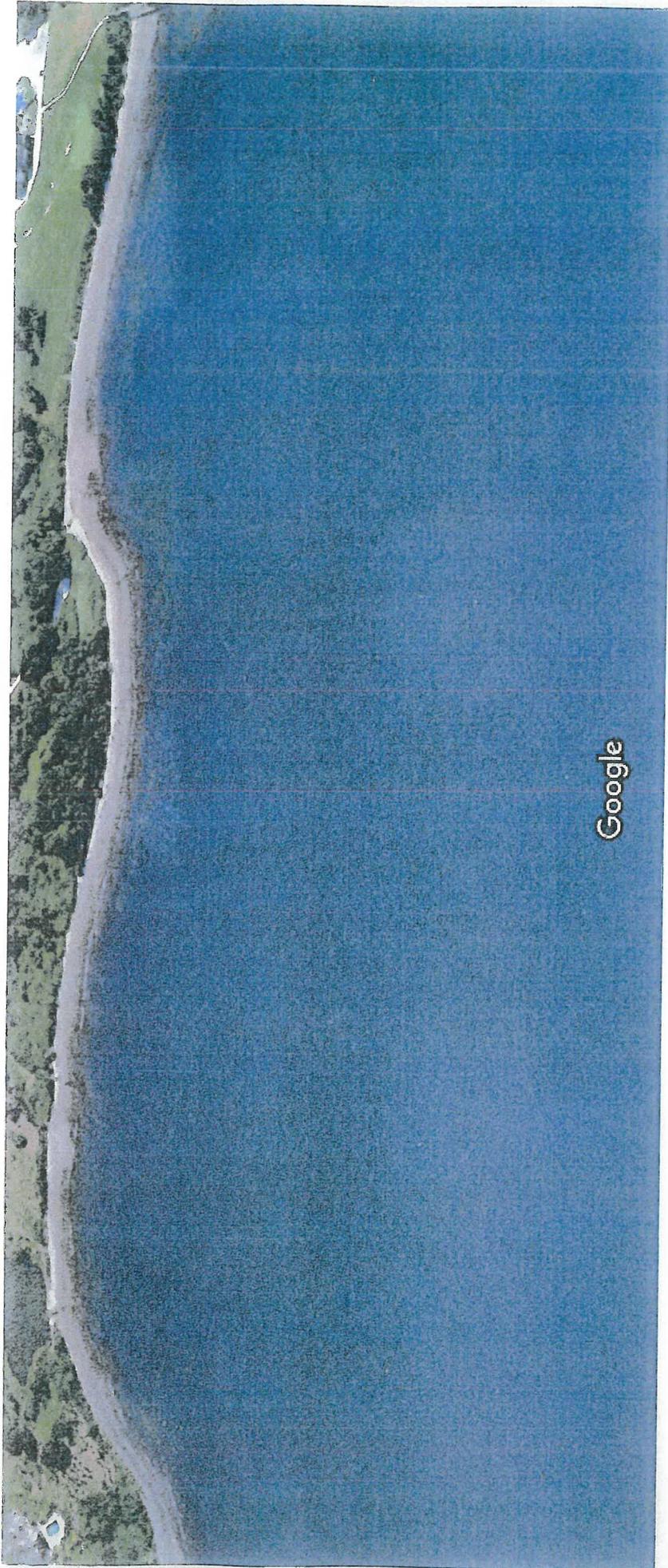
0226



Imagery ©2018 Google, Map data ©2018 Google 200 ft

N →

View Shore out



Imagery ©2018 Google, Map data ©2018 Google 100 ft



View Toward Share

RECEIVED
APR 24 2018
COASTAL RESOURCES
MANAGEMENT COUNCIL

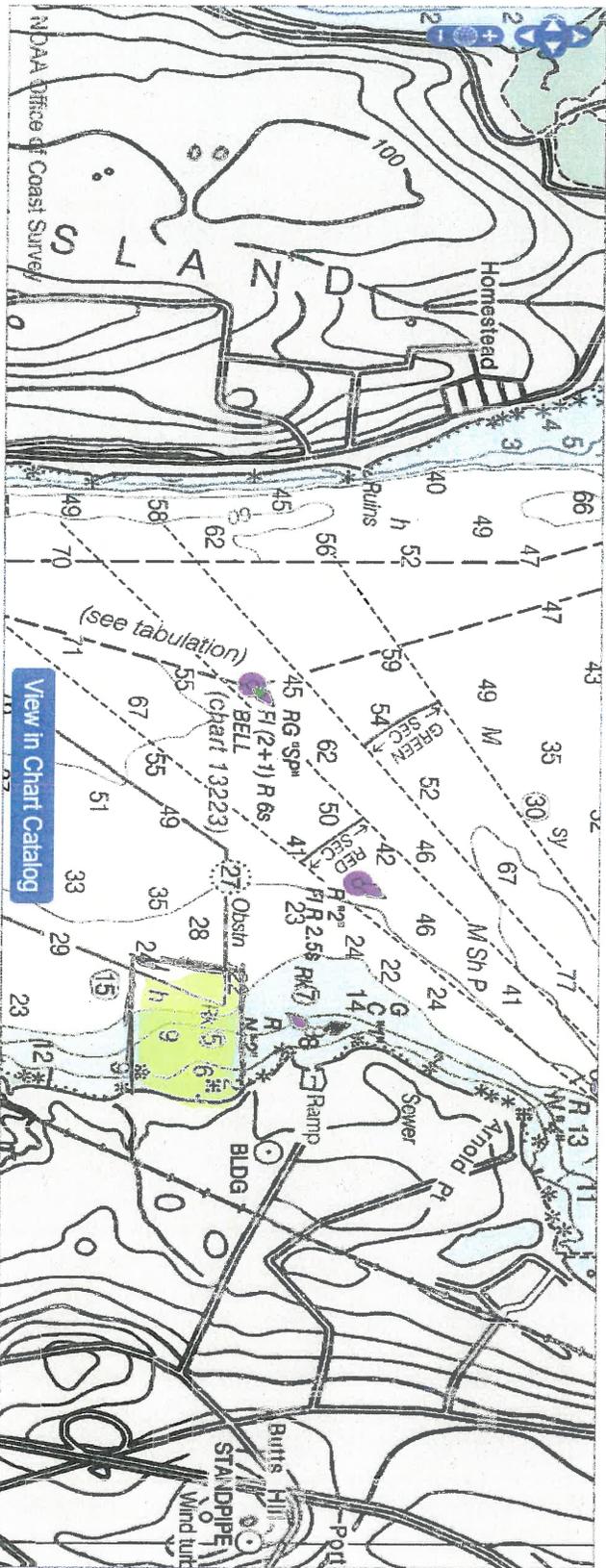
pg 27

RECEIVED
APR 24 2018
COASTAL RESOURCES
MANAGEMENT COUNCIL



Office of Coast Survey
National Oceanic and Atmospheric Administration
U.S. Department of Commerce

Navigation and utility bar with links: HOME, CHARTS, PUBLICATIONS, DATA, LEARN, CUSTOMER SERVICE, ABOUT US. Includes a search box and a 'View in Chart Catalog' button.



Windows taskbar showing system tray with time 9:35 AM, date 4/22/2018, and various application icons.

This chart display or derived product can be used as a planning or analysis tool and may not be used as a navigational aid.

Depth of Approximate
Prepared Area.

pg 28

1. **K. Eagan proposal – change in schedule for Bristol harbor Shellfish Management Area:**

1. Commercial boat harvest schedule, **annually:**

- December 2015: Closed.
- January 1 through January 31, 2016: Open 8:00A.M. to 12:00P.M. noon on Monday, Wednesday, and Friday.
- February 1 through April 30, 2016: Open daily.
- May 1 through November 30 annually until the second Wednesday in December: Closed.
- ~~Default: If a previously established boat harvest schedule expires, the following default schedule shall be in effect:~~

~~Between 8:00A.M. to 12:00P.M. noon on Mondays, Wednesdays, and Fridays, beginning on the second Wednesday of December and continuing through the end of April. Harvest is prohibited on December 25 and January 1 annually.~~