

Summary of proposed rule (note: by clicking on the hearing item in this Summary, it will take you directly to that section of the proposed regulation):

Hearing Item #2: Proposed amendment to “*Part 3 – Finfish*”, regarding the following:

- a. Removal of language “whether caught within the jurisdiction of this State or otherwise”, in several locations throughout the regulation, as unneeded and/or inconsistent with language regarding transiting (sections 3.7.1, 3.7.2, 3.8.1, 3.9.1, 3.9.2, 3.10.1, 3.13.1, 3.13.2, 3.20.1, 3.20.2, 3.21.1, 3.21.2, 3.23.1, 3.23.2, 3.24.1, 3.24.2, 3.28.1, 3.28.2, 3.29.1, 3.29.2, 3.30.1, 3.30.2, 3.31.1, 3.31.2);
- b. Transfer of quota between the striped bass floating fish trap and general category fisheries (section 3.9.2(A)(3));
- c. Coastal shark management, to increase the minimum size for recreational Shortfin Mako for consistency with NOAA (section 3.19.1(C)).
- d. Coastal shark management, to decrease the fishing year starting possession limit for Aggregated Large Coastal (LCS) & Hammerhead species groups for consistency with ASMFC and/or NOAA Fisheries Management Plans (section 3.19.2(F));
- e. Coastal shark management, regarding rod and reel gear and safe handling requirements (sections 3.19.1(F) & 3.19.2(I));
- f. 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) (section 3.20);
- g. Commercial Skate management, to provide for the harvest of Barndoor skate in the Skate wing fishery (section 3.26.2);

Public Hearing
June 4, 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-90-00-3

TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 90 – MARINE FISHERIES

SUBCHAPTER 00 – N/A

PART 3 – Finfish

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3.1 Purpose

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

3.2 Authority

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

3.3 Application

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

3.4 Definitions

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

3.5 Severability

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

3.6 Superseded Rules and Regulations

On the effective date of these Rules and Regulations, all previous Rules and Regulations, and any policies regarding the administration and enforcement of these regulations shall be superseded. However, any enforcement action taken by, or application submitted to, the Department prior to the effective date of these Rules and Regulations shall be governed by the Rules and Regulations in effect at the time the enforcement action was taken, or application filed.

3.7 Black Sea Bass

3.7.1 Recreational

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

1. January 1 July 2: Closed.
2. July 3 through August 31: Three (3) fish per person per calendar day; ~~whether caught within the jurisdiction of this State or otherwise.~~
3. September 1 through December 31: Five (5) fish per person per calendar day; ~~whether caught within the jurisdiction of this State or otherwise.~~

3.7.2 Commercial

- A. Minimum size: Eleven (11) inches; ~~whether caught within the jurisdiction of this State or otherwise.~~
- B. Seasons, allocations, and possession limits: A state quota for Black sea bass will be established annually and shall be the most recent amount allocated to the State of Rhode Island by the ASMFC and/or the Secretary of the NOAA Fisheries. The quota shall be available during the following sub-periods:
 1. January 1 through April 30:
 - a. Allocation: Twenty-five percent (25%) of the quota.
 - b. Possession limit: Five hundred (500) pounds per vessel per week.
 2. May 1 through June 30:
 - a. Allocation: Twenty-five percent (25%) of the quota.
 - b. Possession limit: Fifty (50) pounds per vessel per calendar day.
 3. July 1 through July 31:
 - a. Allocation: Nineteen and a half percent (19.5%) of the quota.
 - b. Possession limit: Fifty (50) pounds per vessel per calendar day.
 4. August 1 through September 14: Closed.
 5. September 15 through October 31:
 - a. Allocation: Nineteen and a half percent (19.5%).
 - b. Possession limit: Fifty (50) pounds per vessel per calendar day.
 6. November 1 through December 31:
 - a. Allocation: Eleven percent (11%).
 - b. Possession limit: Fifty (50) pounds per vessel per calendar day.

C. Black sea bass pot construction

1. All black sea bass pots must be constructed with two escape openings in the parlor portion of the pot. Openings may be circular, rectangular, or square, and must be a minimum of 2.5" diameter if circular, 1- 3/8" X 5-3/4" if rectangular, 2" X 2" if square. Escape vents must be attached with biodegradable fasteners which allow vents or panels to fall away from the trap after loss.
2. The hinges or fasteners of one panel or door must be made of one of the following degradable materials:
 - a. Un-treated hemp, jute, or cotton string 3/16" (4.8mm) or smaller;
 - b. Magnesium alloy, timed float releases (pop-up devices) or similar magnesium alloy fasteners;
 - c. Un-galvanized or uncoated iron wire of .094" (2.4mm) or smaller; or
 - d. If "bungee" cord or other elasticized material is used to fasten the top, it must be secured to the trap with a degradable hog ring.

3.8 Scup

3.8.1 Recreational

- A. Minimum size: Nine inches (9").
- B. Season: May 1 through December 31.
- C. Possession limit: Thirty (30) fish per person per calendar day, ~~whether caught within the jurisdiction of this State or otherwise.~~
- D. Special shore-fishing provision:
 1. Locations: India Point Park, Providence; Conimicut Park, Warwick; Rocky Point, Warwick; Stone Bridge, Tiverton; East and West Walls (Harbor of Refuge), Narragansett; Fort Wetherill, Jamestown; and Fort Adams, Newport:
 2. Minimum size: Eight inches (8").
 3. Season: May 1 through December 31.
 4. Possession limit: Thirty (30) fish per person per calendar day.
- E. Licensed Party and Charter vessels seasons and possession limit:

1. May 1 through August 31: Thirty (30) fish per person per calendar day, ~~whether caught within the jurisdiction of this State or otherwise.~~
2. September 1 through October 31: Forty-five (45) fish per person per calendar day ~~whether caught within the jurisdiction of this State or otherwise.~~
3. November 1 through December 31: Thirty (30) fish per person per calendar day ~~whether caught within the jurisdiction of this State or otherwise.~~

3.8.2 Commercial

- A. Minimum size: Nine (9) inches.
- B. Seasons, quotas and possession limit: A total allowable harvest of Scup will be established annually, and shall be that amount allocated to the State of Rhode Island by the Regional Fishery Management Councils and/or the ASMFC.
 1. January 1 through April 30 (federal Winter I): 50,000 pounds per vessel per calendar day, decreasing to 1,000 pounds per vessel per calendar day once 80% of the federal Winter I coastwide Scup quota has been harvested as determined by NOAA Fisheries.
 2. May 1 through September 30 (Summer): The State quota for this sub-period will be divided as follows:
 - a. General Category (gear types other than floating fish traps): Forty percent (40%) of the Summer sub-period quota will be allocated to all gear types except floating fish traps.
 - (1) Possession limit: 10,000 pounds per vessel per calendar week. The calendar week period shall begin on Sunday at 12:00 AM and ends on the following Saturday at 11:59 PM. When the Summer sub-period quota has been harvested as determined by the DEM, the fishery will close.
 - b. Floating fish trap: Sixty percent (60%) of the Summer sub-period quota will be allocated to the floating fish trap sector.
 - (1) During those years in which the federal Winter I coastwide Scup quota is completely exhausted prior to April 15, the floating fish trap quota will be available on April 15. During those years in which the federal Winter I coastwide Scup quota is not completely exhausted prior to April 15, the floating fish trap quota will be available on May 1.

- (2) If the DEM estimates that the Floating Fish Trap sector will not fully utilize its scup allocation prior to the end of the Summer-Fall sub-period, beginning on June 15, the DEM has the authority to move the designated Floating Fish Trap sector allocation in to the general category fishery as set forth in this part. DEM will consult with the Floating Fish Trap operators or their designee prior to enacting any allocation roll over, and will maintain written correspondence in the form of a letter on file as proof of said consultation.
- (3) If the DEM estimates that the Floating Fish Trap sector may have a reasonable likelihood of utilizing prior to the end of the Summer-Fall sub-period, a portion of its scup allocation that has been transferred to the general category scup fishery, and has not as yet been used by the general category scup fishery, the DEM has the authority to move the designated general category Scup fishery quota to the Floating Fish Trap sector. Any quota that was rolled over from the General Category to the Floating Fish Trap sector shall not exceed the amount that may have been transferred from the Floating Fish Trap sector to the General Category.
- (4) Floating Fish Trap Reporting Requirement: Floating fish trap operators permitted pursuant to R.I. Gen. Law § 20-5-1 will be required to report landings of scup to SAFIS every Monday, Wednesday, and Friday, of every week that the trap is in operation. If there is non-compliance with this reporting requirement, the Floating Fish Trap operators will be notified and will default to the following program:
 - (AA) April 15 through October 31: During those years in which the Winter I Federal Coastwide Scup Quota Allocation is completely exhausted prior to April 15, the floating fish trap quota will be available on April 15. The possession limit will be 25,000 pounds per floating fish trap per calendar day. Once ninety percent (90%) of the sub-period allocation is projected to be harvested, the possession limit will be 5,000 pounds per fish trap licensee per calendar day until one hundred percent (100%) of the quota has been harvested.
 - (BB) May 1 through October 31: During those years in which the Winter I federal coastwide scup quota allocation is not completely exhausted prior to April 15, the floating fish trap quota will be available on May 1. The possession limit will be 25,000 pounds

per floating fish operator per calendar day. Once ninety percent (90%) of the sub-period allocation is projected to be harvested, the possession limit will be 5,000 pounds per fish trap licensee per calendar day until one hundred percent (100%) of the quota has been harvested

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

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

C. Trawl vessel gear restrictions - minimum mesh size: Owners or operators of otter trawl vessels possessing five hundred (500) pounds or more of scup from November 1 through April 30; or two hundred (200) pounds or more of scup from May 1 through October 31, may only fish with nets that have a minimum mesh size of five (5) inches diamond (inside measure) or square mesh with a minimum length of seventy-five (75) meshes from the terminus of the net. For nets with less than seventy-five (75) mesh cod ends, the entire net will be five (5) inch minimum size diamond or square mesh.

D. Scup pots:

1. Pot limits: Each person utilizing pots in the scup fishery shall be permitted to fish up to fifty (50) pots regardless of the number of licenses on board the vessel.

2. Pot construction - escape vents: All scup pots must be constructed with escape openings. Openings may be circular, rectangular, or square, and must be a minimum of 3.1" diameter, 2-1/4" X 5-3/4" if rectangular or may be constructed of 2-1/4" X 2-1/4" wire mesh. Escape vents must be

attached with biodegradable fasteners which allow vents or panels to fall away from the trap after loss.

3. The hinges or fasteners of one panel or door must be made of one of the following degradable materials:
 - a. Un-treated hemp, jute, or cotton string 3/16" (4.8mm) or smaller;
 - b. Magnesium alloy, timed float releases (pop-up devices) or similar magnesium alloy fasteners;
 - c. Un-galvanized or uncoated iron wire of .094" (2.4mm) or smaller; or
 - d. If "bungee" cord or other elasticized material is used to fasten the top, it must be secured to the trap with a degradable hog ring.

3.9 Striped Bass

3.9.1 Recreational

- A. Minimum size: Twenty-eight inches (28") in total length, ~~whether caught within the jurisdiction of this State, or otherwise.~~
- B. Season: January 1 through December 31.
- C. Possession limit: One (1) fish per person per day, ~~whether caught within the jurisdiction of Rhode Island or otherwise.~~
 1. Possession limit compliance aboard vessels:
 - a. Licensed party/charter vessels: Possession limit compliance aboard licensed party/charter vessels will be determined by dividing the number of fish by the number of fishermen onboard the boat.
 - b. Multiple licensed recreational fishermen fishing from a single vessel: Possession limit compliance aboard vessels with multiple licensed fishermen will be determined by dividing the number of fish by the number of licensed fishermen on board said vessel.
- D. Any person recreationally harvesting a striped bass thirty-four (34) inches or larger shall at the time of harvest have the right pectoral fin removed at a point as close to the body of the fish as possible

3.9.2 Commercial

- A. General Category:
 1. Minimum size: Thirty-four (34) inches or greater in total length, ~~whether caught within the jurisdiction of this state or otherwise.~~

2. Seasons, allocations, and possession limits: During a single calendar year, the general category Striped bass fishery shall be allowed to harvest not more than sixty-one percent (61%) of the annual Rhode Island commercial quota.
 - a. January 1 through May 19: Closed.
 - b. May 20 through August 4:
 - (1) Allocation: Seventy percent (70%) of the general category quota will be available in this sub-period.
 - (2) Possession limit: Five (5) fish per person per calendar day, or if fishing from a vessel, five (5) fish per vessel per calendar day.
 - (3) The fishery will be closed in each calendar week on Friday and Saturday during this sub period. There will be no commercial possession or sale of Striped bass on these days for general category commercial fishermen.
 - (4) The sub-period will close once seventy percent (70%) of the general category quota is projected to be harvested if prior to August 31.
 - c. August 5 through December 31:
 - (1) Allocation: Thirty percent (30%) of the general category quota will be available in this sub-period.
 - (2) Possession limit: Five (5) fish per person per calendar day, or if fishing from a vessel, five (5) fish per vessel per calendar day.
 - (3) The fishery will be closed in each calendar week on Friday and Saturday during this sub period. There will be no commercial possession or sale of Striped bass on these days for general category commercial fishermen.
 - (4) The sub-period will close when 30% of the general category quota is projected to be harvested.
 - (5) If DEM determines that the quota will be exceeded or will not be met before the end of the fall season, DEM may adjust that catch rate accordingly on or after September 15 annually.

3. If DEM estimates that the Floating Fish Trap sector will not fully utilize its **Striped bass** allocation prior to the end of the season, ~~beginning on October 15,~~ the ~~Division DEM~~ may ~~move~~ **transfer all or a portion of** the Floating Fish Trap **sector** allocation into the General Category fishery. DEM will consult with the Floating Fish Trap Licensees or their designee prior to enacting any ~~allocation roll-over~~ **such transfer**, and will maintain written correspondence ~~in the form of a letter on file as proof of said consultation~~ **of this consultation**.

4. Floating fish trap allocation that has been transferred to the general category fishery in accordance with § 3.9.2(3) of this Part may be transferred back to the floating fish trap fishery. Any allocation transferred back to the floating fish trap fishery shall not exceed the amount of the original transfer.

B. Floating Fish Trap:

1. Floating fish trap operators must be permitted pursuant to RIMFR “Part 6 – General Equipment Provisions” of this Subchapter.
2. Allocation: During a single calendar year, the floating fish trap quota shall not be more than thirty-nine percent (39%) of the annual Rhode Island commercial quota.
3. Minimum size: Twenty-six inches (26”) in total length.
4. Season: April 1 through December 31.
5. Possession limit: Unlimited. Once seventy percent (70%) of the seasonal allocation is projected to be harvested the possession limit shall be five hundred (500) pounds per floating fish trap licensee per calendar day.
6. When DEM has determined that the annual quota allocated to floating fish traps has been reached, the fishery will terminate.
7. Reporting: All floating fish trap operators shall keep daily records of striped bass landings and report landings to SAFIS every Monday, Wednesday, and Friday, of every week that the trap is in operation.
8. If the floating fish trap operators are found to be out of compliance with the reporting requirements, the operators will be notified, and default to following program:
 - a. April 1 through December 31: One hundred percent (100%) of the floating fish trap quota shall be available during this sub-period. Once eighty percent (80%) of the seasonal allocation is projected to be harvested the possession limit shall be 500 pounds per floating fish trap licensee per calendar day.

- C. Gillnet prohibition for Striped bass: No person shall take or possess any striped bass while gillnetting, or while hauling a gill net.
- D. Hybrid Striped Bass Cultured Striped Bass:
1. Aquaculture-reared striped bass or hybrid striped bass brought into Rhode Island for sale or resale, which is wholly or partially processed, except for cultured striped bass or hybrid Striped bass from a fish farm or processor which are a fully processed and packaged product whether fresh or frozen, shall have affixed to it a tag identifying it as an aquaculture product.
 2. Packages, containers, and each fish or fish product containing aquaculture products shall be tagged or labeled with a uniform series of 14-digit numbers and letters as shown in the example below:

MD = State of origin

123 = Permit number (producing state issued permit number)

0889 = Month and year of shipment

A1234 = Species ID and number of product
 3. Each fish or fish product shall have affixed to it a tag bearing the same information listed in § 3.9.2(D)(2) of this Part.
 4. The sale of this product shall be accompanied by a receipt showing:
 - a. the date of sale;
 - b. name, address, and permit number of the aquaculture facility;
 - c. numbers and species of Striped bass sold;
 - d. name of purchaser.
 5. Fish shipped in the round and filleted by the seller, shall have the tag removed and wrapped in with the fillets when sold.
 6. The consignee of each subsequent sale shall retain a copy of the bill of lading or similar accountable document for 1 year, and make it available to the Department upon request.
- E. Commercial Striped Bass Tags: Each individual Striped bass shall be immediately marked with tags available from DEM. No Striped bass may be sold unless it has been properly identified with such tag. DEM may designate tagging

agents as appropriate. All designated tagging agents shall keep and maintain the required forms and reports specified by DEM. All tag reports and unused tags must be returned to DEM by January 1st of the following year. Failure to return reports and unused tags may result in the tagging agent becoming ineligible to receive striped bass tags in the future.

3.10 Summer Flounder

3.10.1 Recreational

- A. Minimum size: Nineteen inches (19”).
- B. Season: May 1 through December 31.
- C. Possession limit: Six (6) fish, ~~whether caught within the jurisdiction of this state or otherwise.~~

3.10.2 Commercial

- A. Minimum size: Fourteen (14) inches.
- B. Seasons, allocations, and possession limits: A total annual statewide quota for Summer flounder will be established for the State by the ASMFC and/or NOAA Fisheries.
 - 1. January 1 through April 30 (Winter):
 - a. Target allocation: 54% of the annual quota.
 - b. Possession limit between January 1 and the start of the Winter sub-period of the Aggregate Landing Program, annually:
 - (1) Vessels that possess a valid RI Summer Flounder Exemption Certificate (Exemption Certificate): One hundred (100) pounds per vessel per calendar day.
 - (2) Vessels that do not possess a valid Exemption Certificate: One hundred (100) pounds per vessel per calendar day.
 - c. Possession limit during the Winter sub-period of the Aggregate Landing Program, annually:
 - (1) Vessels not permitted in the Aggregate Landing Program but which possess a valid Exemption Certificate: One hundred (100) pounds per vessel per calendar day. When 90% of the Winter sub-period quota has been harvested as determined by the DEM, the possession limit per vessel shall be one hundred (100) pounds per calendar day.

- (2) Vessels that do not possess a valid Exemption Certificate: One hundred (100) pounds per vessel per calendar day. When 90% of the Winter sub-period quota has been harvested as determined by the DEM, the possession limit per vessel shall be one hundred (100) pounds per calendar day.
- (3) Aggregate Landing Program: One thousand five hundred (1,500) pounds per vessel per bi-weekly period. The bi-weekly periods shall be specified in the Aggregate Landing Permit. When 90% of the Winter sub-period quota has been harvested as determined by the DEM, the Aggregate Landing Program will terminate and the possession limit shall be one hundred (100) pounds per vessel per calendar day.

2. May 1 - September 15 (Summer):

- a. Target allocation: 35% of the annual quota.
- b. Possession limit:
 - (1) Vessels that possess a valid Exemption Certificate: Fifty (50) pounds per vessel per calendar day. The fishery is closed Friday, Saturday, and Sunday each week.
 - (2) Vessels that do not possess a valid Exemption Certificate: Fifty (50) pounds per vessel per calendar day. The fishery is closed Friday, Saturday, and Sunday each week.

3. September 16 – December 31 (Fall):

- a. Target allocation: 11% of the annual quota.
- b. Possession limit:
 - (1) Vessels that possess a valid Exemption Certificate: One hundred (100) pounds per vessel per calendar day.
 - (2) Vessels that do not possess a valid Exemption Certificate: One hundred (100) pounds per vessel per calendar day.

C. Aggregate Landing Program:

1. Sub-periods:

a. Winter: Beginning on the Sunday of the first full week in February through April 30 annually, or until 90% of the Winter sub-period quota has been harvested as determined by the DEM.

2. Eligibility: An applicant vessel shall be considered eligible for a permit to participate in the Aggregate Landing Program by demonstrating to the satisfaction of the DEM and the Division of Law Enforcement each of the following:

a. The vessel, if harvesting Summer flounder from federal waters, possesses a valid federal Summer Flounder Moratorium Permit and RI Summer Flounder Exemption Certificate (Exemption Certificate);

b. The vessel's operator, if harvesting exclusively in State waters, holds a valid RI commercial fishing license to harvest or land summer flounder and possesses a valid Exemption Certificate;

c. The vessel's operator has not been assessed a criminal or administrative penalty in the past three years for a violation of this section or has more than one marine fisheries violation.

3. Application: Application for an Aggregate Landing Program Permit shall be made on forms as prescribed by the Director.

4. Non-compliance with the provisions of these regulations or the permit agreement shall subject both the owner and the operator to revocation of enrollment and participation in the commercial fisheries for remainder of the sub-period or the subsequent sub-period. If for any reason a sub-period does not exist by regulation, the privilege of the owner(s) and operator(s) to commercially harvest fish shall be suspended for the same calendar time period as described in the current sub-period upon adjudication.

D. Rhode Island Summer Flounder Exemption Certificate:

1. Application: Applicant's shall provide each of the following:

a. A copy of the operator's valid current Rhode Island commercial fishing license or non-resident landing license, and Federal Fluke Permit if the summer flounder is to be taken in the EEZ;

b. A completed notarized application;

c. Proof that the vessel meets the requirements set out in this section;

d. Provide a completed notarized waiver authorizing the Department to access records verifying that this vessel and operator meet the criteria set forth in this section; and

- e. A copy of the vessel's U.S. Coast Guard documentation papers or state issued boat registration certificate proving ownership of the vessel.
2. Eligibility: DEM will issue an Exemption Certificate for a vessel if the owner of the vessel or his/her representative applies to DEM prior to January 1, 1997, for the issuance of such a certificate and demonstrates to the satisfaction of the Director that:
- a. The operator of the vessel possesses a valid Rhode Island commercial fishing license to land Summer flounder up to the amount permitted by these regulations; and
 - b. The subject vessel meets any of the following criteria:
 - (1) The vessel was operated by a person who possessed a valid Rhode Island commercial fishing license and landed and sold in excess of one pound of summer flounder to a Rhode Island licensed dealer during the period from January 1, 1987, through December 31, 1992;
 - (2) The vessel fished exclusively in the Exclusive Economic Zone (EEZ) and landed and sold in excess of one pound of summer flounder to a licensed Rhode Island licensed dealer sometime during the period January 1, 1987, through December 31, 1992. The Department may require additional supporting documents including but not limited to the ship's logs, ice and fuel slips;
 - (3) The vessel replaces a vessel which was operated by a person who possessed a valid Rhode Island commercial fishing license, and the vessel being replaced landed and sold in excess of one pound of summer flounder to a Rhode Island licensed dealer during the period from January 1, 1987, through December 31, 1992, and if the vessel being replaced was lost by sinking or was otherwise destroyed, the replaced vessel is required to have been owned by the applicant at the time of the loss;
 - (4) The vessel replaces a vessel which fished exclusively in the EEZ and landed and sold in excess of one pound of summer flounder to a Rhode Island licensed dealer, during the period January 1, 1987, through December 31, 1992, and if the vessel being replaced was lost by sinking or was otherwise destroyed, the replaced vessel is required to have been owned by the applicant at the time of the loss.

- (5) If the vessel is replacing a vessel that was lost by sinking or was otherwise destroyed, documentation must be presented from a licensed insurance company, U.S. Coast Guard report, or some other valid evidence of ownership to the satisfaction of the Director.
3. Transfer of an Exemption Certificate: An Exemption Certificate issued by the DEM is only valid for the vessel to which it is issued. A vessel may be sold with all certificates, permits (state and federal) and history transferred together or without the certificates, permits (state and federal) and history for purposes of replacing the vessel. In instances when a vessel owner retains all certificates, permits, and history they must be applied to a replacement vessel owned by said individual within ninety (90) days.
 - a. Change in ownership: An Exemption Certificate is presumed to transfer with the vessel whenever it is bought, sold, or otherwise transferred, unless there is a written agreement, signed by the transferor/seller and transferee/buyer, or other credible written evidence, verifying that the transferor/seller is retaining the vessel's fishing and permit history for purposes of replacing the vessel. Individuals who purchase a vessel issued an Exemption Certificate must supply credible written evidence verifying that they are the full owner of said vessel. Vessel ownership will be determined solely by an issued and valid (unexpired) US Coast Guard documentation or state registration.
 - b. Replacement Vessels: A vessel owner wishing to transfer an Exemption Certificate must provide proof to the satisfaction of the DEM that the applicant vessel is replacing a vessel and that said certificate is only applicable to the vessel for which the Exemption Certificate has been transferred.
 - (1) The vessel owner must supply credible written evidence verifying that the transferor/seller is retaining the vessel's Exemption Certificate for purposes of replacing the vessel. If a vessel owner elects to sever the Exemption Certificate from a vessel, the Exemption Certificate may be transferred only to another vessel fully owned by said vessel owner. Proof of full ownership of both vessels is required. Vessel ownership will be determined solely by an issued and valid (unexpired) US Coast Guard documentation or state registration.
 - (2) Vessel permits (state and federal), Exemption Certificates, and fishing history cannot be split.

- (3) An Exemption Certificate may not be combined to create larger replacement vessels.
 - (4) The replacement vessel may not exceed a 10 percent increase in length overall (LOA), a 10 percent increase in gross registered tonnage (GRT) or net tonnage (NT), or a 20 percent increase in horsepower of the vessel's baseline specifications, as applicable.
 - (5) Vessel baseline specifications: The vessel baseline specifications in this section are the respective specifications (length, gross registered tonnage, net tonnage, horsepower) of the vessel that was initially issued an Exemption Certificate.
 - (6) A vessel may be upgraded, whether through refitting or replacement, and be eligible to retain an Exemption Certificate, only if the upgrade complies with the following:
 - (AA) The vessel's horsepower may be increased only once, whether through refitting or replacement. Such an increase may not exceed 20 percent of the horsepower of the vessel's baseline specifications, as applicable.
 - (BB) The vessel's length, GRT, and NT may be increased only once, whether through refitting or replacement. Any increase in any of these three specifications of vessel size may not exceed 10 percent of the vessel's baseline specifications, as applicable. If any of these three specifications is increased, any increase in the other two must be performed at the same time. This type of upgrade may be done separately from an engine horsepower upgrade.
4. Exemption Certificates may not be:
 - a. Pledged, mortgaged, leased, or encumbered in any way;
 - b. Transferred with any retained right of repossession or foreclosure, or any condition requiring a subsequent transfer; or
 - c. Attached, distrained, or sold on execution of judgment.
 5. Otter trawl Mesh size: Otter trawlers that land or possess 100 pounds (45.4 kg) or more of Summer flounder per day from May 1 through October 31; or 200 pounds (90.8 kg) or more of summer flounder per trip from November 1 through April 30, must fish with nets or combinations of

nets that have a minimum mesh size of 5.5 inch (14.0 cm) diamond, or 6 inch (15.2 cm) square mesh applied throughout the body, extension(s) and cod end portion of the net.

6. Summer flounder may be landed between the hours of 6:00 AM to 8:00 PM only;
7. Control Date: A control date of December 31, 2010, is established for the commercial Summer flounder fishery in Rhode Island.

3.11 Tautog

3.11.1 Recreational

- A. Minimum size: Sixteen (16) inches.
- B. Seasons and possession limits:
 1. January 1 through March 30: Closed.
 2. April 1 through May 31: Three (3) fish per person per calendar day.
 3. June 1 through July 31: Closed.
 4. August 1 through October 14: Three (3) fish per person per calendar day.
 5. October 15 through December 31: Five (5) fish per person per calendar day.
 6. Maximum per vessel possession limit: The possession limit shall be per person per calendar day, as stated above, with a maximum of ten (10) fish per vessel per calendar day.
 7. Licensed Party and Charter vessels seasons and possession limits:
 - a. January 1 through April 14: Closed
 - b. April 15 through May 31: Three (3) fish per person per calendar day.
 - c. August 1 through October 14: Three (3) fish per person per calendar day.
 - d. October 15 through December 15: Six (6) fish per person per calendar day.
 - e. December 16 through December 31: Closed

8. Licensed Party/charter vessels are not subject to the ten (10) fish per vessel per calendar day restriction.
9. Reporting: Any Party and Charter vessel participating in the tautog fishery must report each trip targeting tautog into the elogbook (the electronic logbook hosted by ACCSP).

3.11.2 Commercial

- A. Minimum size: Sixteen (16) inches.
- B. Seasons, allocations, and possession limit: The total allowable harvest of tautog will be established annually, and will be that amount allocated to the State of Rhode Island by the Regional Fishery Management Council and/or the ASMFC. The quota shall only be available during the following seasons:
 1. January 1 through March 30: Closed.
 2. April 1 through May 31:
 - a. Allocation: 40% of the annual quota.
 - b. Possession limit: Ten (10) fish per vessel per day.
 3. June 1 through July 31: Closed.
 4. August 1 through September 15:
 - a. Allocation: 20% of the annual quota.
 - b. Possession limit: Ten (10) fish per vessel per day.
 5. September 16 through October 14: Closed.
 6. October 15 through December 31:
 - a. Allocation: 40% of the annual quota
 - b. Possession limit: Ten (10) fish per vessel per day.

3.12 American eel

3.12.1 Recreational

- A. Minimum size: Nine (9) inches.
- B. Season: January 1 through December 31.
- C. Possession limit: Twenty-five (25) fish per angler per day.

D. Licensed Party and Charter vessel season and possession limit:

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

3.12.2 Commercial

- A. Minimum size: Nine (9) inches.
- B. Season: January 1 through December 31.
 1. Closed season: September 1 through December 31 annually for any gear type other than baited traps/pots or spears.
- C. Possession limit: Unlimited.
- D. Commercial Eel pot restrictions: Eel pots shall have a minimum mesh size of $\frac{1}{2}$ by $\frac{1}{2}$ inches or shall have a 4 by 4 inch escape panel constructed of a mesh size of at least $\frac{1}{2}$ by $\frac{1}{2}$ inch mesh. The escape vent allowance will be in effect from January 1, 2014 – December 31, 2016, after which the entire pot must meet the $\frac{1}{2}$ by $\frac{1}{2}$ inches mesh requirement.

3.13 American plaice

3.13.1 Recreational

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

3.13.2 Commercial

- A. Minimum size: Twelve inches (12"), ~~whether caught within the jurisdiction of this State or otherwise.~~

- B. Fishing year: The commercial American plaice fishery shall operate on a May 1 through April 30 fishing year.
- C. Possession limit:
 - 1. There is no commercial possession limit for American plaice provided the vessel is fishing in state waters and does not have a federal permit authorizing the harvest of American plaice.
 - 2. Vessels in possession of a federal permit authorizing the commercial harvest of American plaice in federal waters may harvest American plaice in state waters in the amount equal to the federal regulations.

3.14 American shad

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

3.15 Atlantic herring

3.15.1 Commercial

- A. Season: The season for Atlantic herring begins annually on January 1. When the Atlantic herring quota has been harvested as determined by NOAA Fisheries, the season will close.
- B. Possession limit: 2,000 pounds per vessel per day, unless the vessel holds a RI State Waters Atlantic Herring Fishing permit.
- C. Rhode Island State Waters Atlantic Herring Fishing Permit: A permit from DEM is required for vessels engaged in the fishing and/or processing of over 2,000 pounds of Atlantic herring per day in Rhode Island state waters.
 - 1. Issuance of this permit is contingent on fishing vessel captains attending a meeting with DEM staff where they are required to give proof that:
 - a. The vessel and its captain(s) have obtained all necessary and applicable authorizations to fish for Atlantic herring in RI waters (license, endorsements(s), and vessel declarations);
 - b. The vessel captain(s) have provided a valid email address to DEM at which the captain can access while fishing for the purpose of receiving advisories pertaining to river herring;
 - c. The vessel captain(s) have received from DEM a chart of fixed commercial fishing gear locations in Rhode Island waters and will have said chart in his/her possession while engaged in the fishing and/or processing of Atlantic Herring in RI waters;

- d. The vessel captain(s) have received from DEM a copy of all applicable regulations governing the commercial harvest of Atlantic herring in Rhode Island waters.
 2. Permits shall be issued annually and are valid for one calendar year from January 1 to December 31.
 3. Issuance of the permit is contingent upon a background check to determine if the applicant captain or vessel has been assessed a criminal or administrative penalty in the past three years of this section or 7.20 (River herring) or more than one marine fisheries violation.
- D. River Herring Bycatch Allowance: Vessels possessing a federal Atlantic herring permit fishing in federal waters may transit Rhode Island state waters and make a landing in possession of alewives, or blueback herring, *Alosa aestivalis* (river herring) provided that the count of the combined river herring is 5% or less than the count of Atlantic herring onboard the vessel.
1. The percentage of River herring in the catch will be assessed by sorting and counting a batch of fish taken from the catch of Atlantic herring on board the vessel or being landed by the vessel. This determination as to the percentage of River herring in the catch shall be accomplished by filling a container as defined herein, with a portion of the catch and examining the contents of said container. The percentage of river herring in said container shall be deemed to be representative of the percentage of River herring in the catch as a whole for purposes of a determination as to whether a vessel is in compliance with the requirements of this section.
 2. A batch of fish is defined as all fish in a separate container.
 3. A container is defined as any box, tote, bag, bucket or other receptacle capable of retaining at least 25 gallons of loose fish which may be separated from the total catch of Atlantic herring being landed.
- E. Atlantic Herring Processing: No person may process Atlantic herring for purposes other than human consumption. Direct mealing of Atlantic herring is prohibited.
- F. Atlantic Herring - Vessel Size and Horsepower: No vessel harvesting Atlantic herring in the Atlantic coast herring fishery shall exceed 165 feet in length overall, and 3,000 horsepower.

3.16 Atlantic salmon

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

3.17 Atlantic sturgeon

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

3.18 Bluefish

3.18.1 Recreational

Possession limit: Fifteen (15) fish per person per calendar day.

3.18.2 Commercial

- A. A total allowable harvest of Bluefish will be established annually, and shall be that amount allocated to the State of Rhode Island by the Regional Fishery Management Councils and/or the ASMFC.
- B. Minimum size: Twelve inches (12”).
- C. Seasons and possession limits:
 - 1. January 1 through April 30: One thousand (1,000) pounds per vessel per bi-week.
 - 2. May 1 through second Saturday in November: Six thousand (6,000) pounds per vessel per week.
 - 3. Second Sunday in November through December 31: Five hundred (500) pounds per vessel per week.

3.19 Coastal sharks

3.19.1 Recreational

- A. Prohibited species. Taking or possessing any of the following shark species is prohibited: Sandbar, Silky, Sand tiger, Bigeye sand tiger, Whale, Basking, White, Dusky, Bignose, Galapagos, Night, Reef, Narrowtooth, Caribbean sharpnose, Smalltail, Atlantic angel, Longfin mako, Bigeye thresher, Sharpnose sevengill, Bluntnose sixgill, and Bigeye sixgill.
- B. Landings requirements: No person fishing recreationally shall possess or land sharks that do not have heads, tails, and fins attached naturally to the carcass. Sharks may be gutted and bled by making an incision at the base of the caudal peduncle provided the tail is not removed. No person fishing recreationally shall fillet a shark at sea or otherwise cut a shark into pieces at sea.
- C. Minimum size:

1. Smooth Dogfish, Atlantic sharpnose, Finetooth, Blacknose, and Bonnethead shark: No minimum size.
2. Tiger, Blacktip, Spinner, Bull, Lemon, Nurse, ~~Shortfin mako~~, Porbeagle, Common thresher, Oceanic whitetip, and Blue shark: Minimum fork length is 54 inches.
3. Scalloped hammerhead, Smooth hammerhead, and Great hammerhead shark: Minimum fork length is 78 inches.

4. Shortfin Mako: Minimum fork length is 83 inches.

D. Shore-based possession limits:

1. One (1) shark per person per calendar day, with one additional bonnethead and one (1) additional Atlantic sharpnose shark per person per calendar day.
2. Smoothhound sharks: Unlimited.

E. Vessel-based possession limits:

1. One (1) shark per vessel per calendar day, or per trip per calendar day, whichever is less, regardless of the number of people on board the vessel, with one (1) additional bonnethead and one additional Atlantic sharpnose shark per vessel per calendar day, or per trip per calendar day, whichever is less.
2. Smoothhound sharks: Unlimited.
3. Sharks that are transported by vessel are considered "boat assisted" and "vessel-based" regardless of how or where they were caught.

F. Authorized gear: No person fishing recreationally shall take sharks by any method other than rod and reel or handline. Handlines are defined as a mainline to which no more than two gangions or hooks are attached; retrieved by hand, not by mechanical means; and attached to, or in contact with, a vessel.

1. Any vessel using Rod and Reel, must adhere to the following:

- a. Use corrodible circle hooks, which are defined as non-offset hooks with the point turned perpendicularly back to the shanks; and**
- b. Maximize gear removal, as safely as possible, when releasing sharks.**

3.19.2 Commercial

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

2. Aggregated Large Coastal and Hammerhead species groups: ~~Forty-five (45)~~ **Twenty-Five (25)** sharks per vessel per day, adjusting to between fifty five (55) and zero (0) sharks per vessel per day during the fishing year as determined by NOAA Fisheries.
 3. It shall be unlawful for any person to possess any species of shark in state waters when NOAA Fisheries prohibits the possession of that species in federal waters.
- G. Display and research of sharks: No person shall possess, transport, sell or offer to sell any of the shark species listed in the Prohibited and Research Species groups without a valid state collector's permit obtained from the Director. Any person so authorized shall:
1. Report to the Director within thirty (30) days of possession the species identification, length, weight, date, and location where caught by latitude and longitude coordinates, and the gear used; and
 2. For each shark taken for live display, the holder of the permit shall also report to the Director annually by December 31 for the life of the shark. The report shall include all of the information specified in the original report to the Director pertaining to the sharks, as well as updated information on the length and weight of the shark.
- H. Authorized sale: No person shall sell any shark species to a person or dealer who does not possess a Rhode Island commercial dealer license, and a federal Commercial Shark Dealer Permit issued by the NOAA Fisheries.
- I. Authorized commercial gear: No person shall take or possess sharks using any method other than the following gear types:
1. Rod & reel. **Any vessel using Rod and Reel, must adhere to the following:**
 - a. **Use corrodible circle hooks, which are defined as non-offset hooks with the point turned perpendicularly back to the shanks; and**
 - b. **Maximize gear removal, as safely as possible, when releasing sharks.**
 2. Handlines, which are defined as a mainline to which no more than two gangions or hooks are attached. A handline is retrieved by hand, not by mechanical means, and must be attached to, or in contact with, a vessel;
 3. Small mesh gillnets which are defined as having a stretch mesh size smaller than five (5) inches;

4. Large mesh gillnets which are defined as having a stretch mesh size equal to or greater than five (5) inches. **Any vessel using large-mesh gillnets, must use nets that are shorter than 2.5 kilometers;**

5. Trawl nets;

6. Shortlines which are defined as fishing lines containing fifty (50) or fewer hooks and measuring less than five hundred (500) yards in length. A maximum of two (2) shortlines shall be allowed per vessel. **Any vessel using a shortline shall adhere to the following:**

a. Use corrodible circle hooks, which are defined as non-offset hooks with the point turned perpendicularly back to the shanks; and

b. Practice the protocols, and possess the federally required release equipment, for pelagic and bottom longlines for the safe handling, release, and disentanglement of sea turtles and other non-target species; and

c. All captains and vessel owners must be certified in using, handling and release equipment. Captains and vessel owners can become certified by attending a Protected Species Safe Handling, Release, and Identification Workshop offered by NOAA Fisheries.

7. Pound nets/fish traps;

8. Weirs.

~~J. Bycatch reduction measures: Vessels using shortlines, and large-mesh gillnets, to catch sharks must abide by the following bycatch regulation measures. Any vessels using shortlines, and large-mesh gillnets that do not follow the following bycatch reduction measures are prohibited from possession, landing or selling any sharks.~~

~~1. Any vessel using a shortline shall adhere to the following:~~

~~a. Use corrodible circle hooks, which are defined as non-offset hooks with the point turned perpendicularly back to the shanks; and~~

~~b. Practice the protocols, and possess the federally required release equipment, for pelagic and bottom longlines for the safe handling, release, and disentanglement of sea turtles and other non-target species; and~~

~~c. All captains and vessel owners must be certified in using, handling and release equipment. Captains and vessel owners can become~~

~~certified by attending a Protected Species Safe Handling, Release, and Identification Workshop offered by NOAA Fisheries.~~

~~2. Any vessel using large-mesh gillnets, must use nets that are shorter than 2.5 kilometers.~~

Commented [DP(1): Proposed re-location of language only for improved clarity of rule. Proposed changes represent a technical revision only (non-substantive)

- K. Prohibition of finning: Finning is defined as the act of taking a shark and removing its fins. Finning of sharks is prohibited in all state waters. All sharks, with the exception of smoothhound, possessed by commercial fishermen within state boundaries must have the tails and fins attached naturally to the carcass until landed. Fins may be cut as long as they remain attached to the carcass, by natural means, with at least a small portion of uncut skin. Sharks may be gutted and bled provided the tail is not removed. Sharks taken and possessed by commercial fishermen may have the heads removed, but no commercial fisherman shall fillet a shark at sea or otherwise cut a shark into pieces at sea.
1. Commercial fishermen may eviscerate and remove the head and all shark fins of smooth dogfish while at sea provided smooth dogfish make up at least 25 percent, by weight, of total catch on board at the time of landing. Trips that do not meet the 25 percent catch composition requirement can land smooth dogfish, but the fins must remain naturally attached to the carcass. If fins are removed, the total wet weight of the shark fins may not exceed 12 percent of the total dressed weight of smoothhound carcasses landed or found on board a vessel. Commercial fishermen may retain other sharks on board provided the fins of other shark species remain naturally attached to the carcass through offloading.

3.20 Cod

3.20.1 Recreational

- A. Minimum size: Twenty-two inches (22"), ~~whether caught within the jurisdiction of this State or otherwise.~~
- B. Possession limit: Ten (10) fish per person per calendar day.

3.20.2 Commercial

- A. Minimum size: Nineteen inches (19"), ~~whether caught within the jurisdiction of this State or otherwise.~~
- B. Fishing year: The commercial Cod fishery shall operate on a May 1 through April 30 fishing year.
- C. Possession limit:
 1. 1,000 pounds per vessel per calendar day for any vessel fishing in state waters. The possession limit may be modified on the basis of a RI state

water cod quota as set by DEM, which shall be equal to 1% of the federal Georges Bank cod annual catch limit (ACL) for the given fishing year. When 90% of the state water quota has been harvested as determined by the DEM, the possession limit will decrease to 75 pounds of cod per vessel per calendar day for the remainder of the fishing year.

2. Vessels in possession of a federal permit authorizing the commercial harvest of cod in federal waters may harvest, possess, or land cod in state waters in the amount equal to the federal regulations.

3.21 Haddock

3.21.1 Recreational

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

3.21.2 Commercial

- A. Minimum size: Sixteen inches (16"), ~~whether caught within the jurisdiction of this State or otherwise.~~
- B. Fishing year: The commercial haddock fishery shall operate on a May 1 through April 30 fishing year.
- C. Possession limit:
 - 1. There is no commercial possession limit for haddock provided the vessel is fishing in state waters and does not have a federal permit authorizing the harvest of haddock.
 - 2. Vessels in possession of a federal permit authorizing the commercial harvest of haddock in federal waters may harvest, **possess, or land** haddock in state waters in the amount equal to the federal regulations.

3.22 Menhaden

3.22.1 Recreational

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

3.22.2 Commercial

- A. Menhaden Management Area: Narragansett Bay in its entirety is designated a Menhaden Management Area pursuant to R.I. Gen. Laws § 20-4.1-1. This area shall include the east and west passages of Narragansett Bay, Mt. Hope Bay, and the Sakonnet River, and be bordered on the south by a line from Bonnet Point to Beavertail Point to Castle Hill Light. The southern boundary further extends from Land's End to Sachuest Point and then to Sakonnet Light. The following regulations govern all commercial menhaden operations conducted in the Menhaden Management Area (Management Area).
 - 1. Opening and closure of fishery:
 - a. Fishery opening - possession limits:
 - (1) Biomass Floor: On an annual basis in the spring, the DEM shall conduct regular estimates of the standing stock of menhaden utilizing approved scientific monitoring methods. On the basis of those estimates, DEM shall open the commercial fishery at an initial possession limit of 120,000 pounds per vessel per calendar day when the estimated weekly standing stock reaches 2,000,000 pounds.
 - b. Fishery closure:
 - (1) Biomass Ceiling: When 50% of the estimated standing stock of menhaden stock, above the minimum threshold amount of 1,500,000 pounds, is harvested, the DEM shall close the menhaden fishery until further notice.
 - (2) If at any time the stock estimate drops below 1,500,000 pounds, the DEM shall close the commercial fishery and the incidental catch fishery will be in effect until further notice.

- c. Fall opening in the Menhaden Management Area:
 - (1) Beginning September 1 annually, the area south of a line extending from the Jamestown and Newport Bridges, and the area south of a line extending from Fogland Point to Sandy Point in the Sakonnet River, to the southern extent of the Management Area, will be open to the harvest of menhaden by purse seine provided that the state's quota has not been exhausted or if the Episodic Event Set Aside Program has been enacted in RI.
 - (2) Possession limit: 25,000 pounds per vessel per day.
- 2. Purse seine restrictions:
 - a. The use of purse seines shall be permitted only in accordance with the following terms and conditions:
 - (1) All nets shall be less than 100 fathoms (600 feet) in length and less than 15 fathoms (90 feet) in depth.
 - (2) All nets shall be marked with fluorescent-colored float buoys, distinguishable from the other float buoys on the net, at intervals of 50 feet.
 - (3) Annually, prior to use, all nets shall be inspected and certified as being in conformance with the provisions of this section by the DEM Division of Law Enforcement (DLE). Once inspected and certified, a net may be used throughout the duration of the calendar year in which it was inspected, provided that it is not altered with regard to any of the provisions of this section. Any net that is altered with regard to any of the provisions of this section must be re-inspected and recertified prior to use.
 - b. The possession or taking of menhaden by purse seine is prohibited in the following areas:
 - (1) Providence River: Described as the waters north of a line extending from Rocky Point to Conimicut Light in the city of Warwick, and further extending to Nayatt Point in the town of Barrington.
 - (2) Greenwich Bay: Described as the waters of Greenwich Bay west and north of a line extending from the flag pole on Warwick Point to Sandy Point in the city of Warwick.

- c. The possession or taking of menhaden by purse seine is prohibited on any Saturday, Sunday, official state holiday, or prior to sunrise or following sunset.
 3. Commercial vessel restrictions: A fishing vessel engaged in the commercial menhaden fishery may not have a useable fish storage capacity greater than 120,000 pounds. Prior to the commencement of fishing, for any vessel not previously certified through this process, each vessel must be inspected by a certified marine surveyor and assessed with regard to its fish storage capacity. Such certification must be kept aboard the vessel at all times. Vessels must either be certified as having a useable storage capacity of 120,000 pounds or less, or for vessels with a fish storage capacity greater than 120,000 pounds the excess capacity is rendered unusable in accordance with the specifications set forth in the assessment.
- B. Landing of menhaden in RI under State Quota Program: An annual statewide quota for menhaden is established annually for the State by the ASMFC. The quota shall pertain solely to landings of menhaden in RI and shall not pertain to the possession of menhaden in RI waters prior to landing.
 1. The landing limit is 120,000 pounds/vessel/day until the quota has been reached, as determined by the DEM.
 2. Once the quota has been reached, the fishery will close for directed fisheries, including but not limited to purse seine operations, and the incidental catch fishery will be in effect.
 3. All commercial menhaden operations conducted in the Management Area, prior to and after the State's quota has been reached, are subject to the provisions of § 3.22.2(A) of this Part.
- C. Episodic Event Set Aside Program:
 1. After the State's quota has been reached, if RI is approved to participate in the Episodic Event Set Aside Program for Menhaden, as established by the ASMFC, the landing limit for menhaden will be 120,000 pounds per vessel per day, until the Set Aside quota has been exhausted, as determined by the ASMFC and/or the DEM, at which time the program will end and the directed fishery will close. Vessels that target and land menhaden in RI under this program must harvest only from RI waters and, if operating in the Management Area, must adhere to all the provisions as specified in § 3.22.2(A) of this Part.
 2. The Episodic Event Set Aside Program will end on November 1 annually, or when the Set Aside quota has been harvested, whichever first occurs.
- D. Incidental catch Fishery:

1. Upon closure of the commercial menhaden fishery, an incidental catch fishery will be in effect as follows:

a. Possession limit:

- (1) 6,000 pounds/vessel/day for non-directed and small-scale gears.
- (2) 12,000 pounds/vessel/day for two commercially licensed individuals harvesting from the same vessel, fishing stationary multi-species gear.

b. Gear Types:

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

E. Purse seine reporting requirements:

1. Any fisher intending to engage in the commercial menhaden fishery in the Management Area shall notify the DLE at (401) 222-3070 prior to taking or possessing menhaden. At the time that a fisher advises the DLE of his/her intent to harvest menhaden, the DLE shall notify said fisher of any modification which may have been established in the possession limit for menhaden.
2. Each person engaging in the commercial menhaden fishery shall contact the DEM at (401) 423-1940 at the end of each day to report the area fished and the amount of menhaden in possession by the fisher in pounds.

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

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

H. Possession limit and landing limit compliance:

1. It shall be unlawful for any purse seine operation and/or company to land more than one possession limit and/or landing limit per day.

3.23 Monkfish

3.23.1 Recreational

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

3.23.2 Commercial

- A. Minimum size: Seventeen inches (17") total length or eleven inches (11") tail length, ~~whether caught within the jurisdiction of this State or otherwise.~~
- B. Fishing year: The commercial monkfish fishery shall operate on a May 1 through April 30 fishing year.
- C. Possession limit:
 - 1. Non-federally permitted RI licensed vessel: 700 pounds tail weight or 2,037 pounds whole weight per vessel per calendar day. Whole weight is defined as the weight of monkfish that are gutted (i.e. stomach, liver, and other entrails removed) and have the head and tail attached. In SAFIS landing monkfish in the "whole" is reported using the grade "gutted, head on, tail on".
 - a. The possession of monkfish livers may not exceed the number of gutted-fish and tails combined.
 - b. The possession of monkfish heads may not exceed the number of gutted-head-off-fish and tails combined.
 - 2. The possession limit may be modified on the basis of a RI state water monkfish quota as set by DEM, which shall be equal to 3% of the federal Southern Management Area (SMA) Total Allowable Landings (TAL) as specified by NOAA Fisheries. When 2% of the SMA TAL has been harvested as determined by the DEM, the possession limit will decrease to 50 pounds tail weight or 166 pounds whole weight per vessel per calendar day for the remainder of the fishing year.
- D. Vessels in possession of a federal permit authorizing the harvest of monkfish may harvest monkfish in state waters if and only if they are operating during a previously and properly declared day-at-sea; in such instances, such vessels may harvest monkfish in the amount authorized to be possessed pursuant to federal regulations.

3.24 Pollock

3.24.1 Recreational

- A. Minimum size: Nineteen inches (19"), ~~whether caught within the jurisdiction of this State or otherwise.~~
- B. Fishing year: The recreational Pollock fishery shall operate on a May 1 through April 30 fishing year.
- C. Possession limit:
 - 1. There is no recreational possession limit for pollock provided the vessel is fishing in state waters and does not have a federal permit authorizing the harvest of pollock.
 - 2. Vessels in possession of a federal permit authorizing the recreational harvest of pollock in federal waters may harvest, possess, or land pollock in state waters in the amount equal to the federal regulations.

3.24.2 Commercial

- A. Minimum size: Nineteen inches (19"), ~~whether caught within the jurisdiction of this State or otherwise.~~
- B. Fishing year: The commercial pollock fishery shall operate on a May 1 through April 30 fishing year.
- C. Possession limit:
 - 1. There is no commercial possession limit for pollock provided the vessel is fishing in state waters and does not have a federal permit authorizing the harvest of pollock.
 - 2. Vessels in possession of a federal permit authorizing the commercial harvest of pollock in federal waters may harvest, possess, or land pollock in state waters in the amount equal to the federal regulations.

3.25 River herring

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

3.26 Skate

3.26.1 Recreational

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

3.26.2 Commercial

- A. Fishing year: May 1 through April 30 annually.
- B. State-waters skate wing fishery: Shall be defined as skate harvested, possessed, or landed by a vessel:
 - 1. Fishing in state waters, not on a previously declared Day At Sea (DAS), and without an active federal open-access skate permit; and
 - 2. For food for human consumption with a designated ACCSP Disposition Code 001 = Food.
 - 3. Minimum size: No minimum size.
 - 4. Possession limit: 18,200 pounds per vessel per week for wings only; or 41,314 pounds per vessel per week for whole skate.
 - a. Barndoor skate shall not comprise more than 25% of total skate wing by weight per vessel per day.
 - b. Barndoor skate shall be kept separate from other species harvested.
 - c. When in possession of barndoor skate, vessels are prohibited from discarding any skate species that has been winged.
- C. Skate bait fishery: Shall be defined as skate harvested, possessed, or landed by a vessel:
 - 1. Fishing in state waters, not on a previously declared DAS, without an active federal open-access skate permit, and without a federal skate bait Letter of Authorization (LOA); and
 - 2. For use as bait with a designated ACCSP Disposition Code 008 = Bait.
 - 3. Maximum length: Whole skates must measure less than twenty-three (23) inches total length.
 - 4. Seasons and possession limits:
 - a. Sub-period I - May 1 through July 31:
 - (1) Possession Limit: 25,000 pounds whole skate per vessel per day. When NOAA Fisheries determines that 90 percent of a bait skate TAL for Sub-period I is landed, the possession limit will be reduced to an incidental catch limit of 8,000 pounds whole skate.

- b. Sub-period II - August 1 through October 31:
 - (1) Possession Limit: 25,000 pounds whole skate per vessel per day. When NOAA Fisheries determines that 90 percent of a bait skate TAL for Sub-period II is landed, the possession limit will be reduced to an incidental catch limit of 8,000 pounds whole skate.
- c. Sub-period III - November 1 through April 30:
 - (1) Possession Limit: 12,000 pounds whole skate per vessel per day. When NOAA Fisheries determines that 80 percent of a bait skate TAL for Sub-period III is landed, the possession limit will be reduced to an incidental catch limit of 8,000 pounds whole skate.
- d. Possession limit adjustments: Following the implementation of the incidental catch limit, additional adjustments may be enacted, in accordance with actions by NOAA Fisheries.
 - (1) To ensure the skate bait fishery does not exceed its seasonal or annual TAL, the fishery will close when NOAA determines that 100% of the skate bait TAL for a season is to be harvested.
 - (2) To achieve the seasonal or annual TAL, incidental possession limits may be lifted, reinstating the standard seasonal possession limit.

3.26.3 Prohibited species

The harvest, landing, or possession of ~~bandeet or~~ thorny skate within the ~~territorial~~ marine waters of ~~the state of~~ Rhode Island is prohibited.

3.27 Spiny dogfish

3.27.1 Commercial

- A. Seasons, allocations, and possession limit: RI is currently designated as a state that is part of the Northern region. A Northern region possession limit and quota for spiny dogfish will be established annually by the ASMFC. The Northern region quota for spiny dogfish shall be the most recent allocation by the ASMFC, which is currently set at 58% of the coastwide quota.
 - 1. Season: May 1 until April 30 of the following year.
 - 2. Possession limit: 6,000 pounds per vessel per calendar day. When notified that the quota in the Northern region has been harvested, or

projected to be harvested, as determined by the NOAA Fisheries or the ASMFC, the DEM shall close the fishery for the remainder of the designated period.

3. DEM is hereby authorized to enter into agreements with the other Northern Region States for the purpose of establishing seasons and possession limits governing the taking of spiny dogfish, and may make adjustments as deemed necessary to comply with said agreements. DEM will consult with the Rhode Island state-water spiny dogfish fishers prior to negotiating the subject agreements.

- B. Prohibition of Finning: Finning is defined as the act of taking a spiny dogfish, removing the fins, and returning the remainder of the spiny dogfish to the sea. Finning spiny dogfish is prohibited in state waters. In addition, removing any fin of spiny dogfish at-sea is prohibited (including the tail). All spiny dogfish must be landed with fins-naturally-attached to the corresponding carcass. Gutting fish at-sea is permitted, so long as the fins remain attached by a portion of uncut skin.

3.28 Yellowtail flounder

3.28.1 Recreational

- A. Minimum size: Thirteen inches (13"), ~~whether caught within the jurisdiction of this State or otherwise.~~
- B. Fishing year: The recreational Yellowtail flounder fishery shall operate on a May 1 through April 30 fishing year.
- C. Possession Limit:
 1. There is no recreational possession limit for Yellowtail flounder provided the vessel is fishing in state waters and does not have a federal permit authorizing the harvest of Yellowtail flounder.
 2. Vessels in possession of a federal permit authorizing the recreational harvest of Yellowtail flounder in federal waters may harvest, possess, or land Yellowtail flounder in state waters in the amount equal to the federal regulations.

3.28.2 Commercial

- A. Minimum size: Twelve inches (12"), ~~whether caught within the jurisdiction of this State or otherwise.~~
- B. Fishing year: The commercial Yellowtail flounder fishery shall operate on a May 1 through April 30 fishing year.
- C. Possession Limit:

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

3.29 Weakfish

3.29.1 Recreational

- A. Minimum size: Sixteen inches (16").
- B. Season: January 1 through December 31.
- C. Possession limit: One (1) fish per person per calendar day, ~~whether caught within the jurisdiction of this state or otherwise.~~

3.29.2 Commercial

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

3.30 Winter Flounder

3.30.1 Recreational

- A. Minimum size: Twelve (12) inches ~~whether caught within the jurisdiction of this State or otherwise.~~

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

3.30.2 Commercial

- A. Minimum Size: Twelve (12) inches ~~whether caught within the jurisdiction of this State or otherwise.~~
- B. Season: January 1 through December 31.
- C. Possession limit: Fifty (50) pounds per vessel per day.
- D. Closed Areas: The harvest or possession of Winter flounder is prohibited in Narragansett Bay north of the Colregs line; Potter Pond; Point Judith Pond and the Harbor of Refuge.
- E. Minimum mesh size:
 - 1. Bottom trawl nets: Six (6) inch diamond mesh or six and one half (6.5) inch square mesh applied throughout the body and extension of the net, or any combination thereof, and six and one half (6.5) inch diamond mesh or six and one half (6.5) inch square mesh applied to the cod end of the bottom trawl nets.
 - 2. Gill nets: Six and one half (6.5) inch diamond mesh or six and one half (6.5) inch square mesh applied throughout the net. Vessels may utilize commercial fishing gear with mesh smaller than the sizes referenced in this section provided they do not possess any Winter flounder.
 - a. For vessels greater than 45 ft. in length overall, a diamond mesh cod end is defined as the first 50 meshes counting from the terminus of the net, and a square mesh cod end is defined as the first 100 bars counting from the terminus of the net.
 - b. For vessels 45 ft or less in length overall, a diamond mesh cod end is defined as the first 25 meshes counting from the terminus of the net, and a square mesh cod end is defined as the first 50 bars counting from the terminus of the net.
- F. With the exception of gillnets and fyke nets, fishing for Winter flounder in waters north of the seaward entrance to all coastal salt ponds, (with the exception of Point Judith Pond and the Harbor of Refuge where the harvest or possession of

winter flounder is prohibited), including the waters of Narrow River, and the waters of Little Narragansett Bay north of a line from Napatree Point to the western end of Sandy Point, including the waters of the Pawcatuck River, will be prohibited from one hour after sunset until one hour before sunrise. Gillnets and fyke nets may not be hauled from one hour after sunset to one hour before sunrise.

3.31 Witch flounder

3.31.1 Recreational

- A. Minimum size: Fourteen inches (14"), ~~whether caught within the jurisdiction of this State or otherwise.~~
- B. Fishing year: The recreational Witch flounder fishery shall operate on a May 1 through April 30 fishing year.
- C. Possession Limit:
 - 1. There is no recreational possession limit for Witch flounder provided the vessel is fishing in state waters and does not have a federal permit authorizing the harvest of Witch flounder.
 - 2. Vessels in possession of a federal permit authorizing the recreational harvest of Witch flounder in federal waters may harvest, possess, or land Witch flounder in state waters in the amount equal to the federal regulations.

3.31.2 Commercial

- A. Minimum size: Thirteen inches (13"), ~~whether caught within the jurisdiction of this State or otherwise.~~
- B. Fishing year: The commercial Witch flounder fishery shall operate on a May 1 through April 30 fishing year.
- C. Possession limit:
 - 1. There is no commercial possession limit for Witch flounder provided the vessel is fishing in state waters and does not have a federal permit authorizing the harvest of Witch flounder.
 - 2. Vessels in possession of a federal permit authorizing the commercial harvest of Witch flounder in federal waters may harvest, possess, or land Witch flounder in state waters in the amount equal to the federal regulations.