



Rhode Island Marine Fisheries Council

3 Fort Wetherill Road Jamestown, Rhode Island 02835

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

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

MEETING NOTICE RI MARINE FISHERIES COUNCIL

December 7, 2020 – 6:00 PM

Virtual public meeting only

Zoom webinar:

<https://us02web.zoom.us/j/82677772621>

Meeting ID: 826 7777 2621

Dial in: 1-929-205-6099

AGENDA

Agenda item	Recommended action(s)	ePacket Attachment(s)
1. Tonight's agenda	Approval of agenda	<ul style="list-style-type: none"> • Tonight's meeting agenda.
2. Meeting minutes from last meeting (11/2/2020)	Approval of meeting minutes	<ul style="list-style-type: none"> • Draft meeting minutes.
3. Public comment on any matters not on the agenda	Discussion and/or recommendations for future action.	N/A
4. <u>Proposed regulation amendments:</u> <i>J. Lake</i>	Provide recommendations to the Director regarding proposed regulations	<ul style="list-style-type: none"> • Written comments submitted • Public hearing recording • <u>Proposed rules:</u> <ul style="list-style-type: none"> ○ 2021 commercial black sea bass management ○ Recreationally Striped Bass circle hooks ○ 2021 commercial summer flounder management ○ Summer Flounder Aggregate Landing Program (Winter I) Permit – Eligibility Requirements ○ Summer Flounder Aggregate Landing Program (Winter I) Permit – Permit Conditions ○ Summer Flounder Aggregate Landing Program Permit (Winter I) - Penalties for Non-Compliance

<p>4. <u>Proposed regulation amendments cont'd:</u> <i>J. Lake</i></p>		<ul style="list-style-type: none"> ○ Bio-medical Horseshoe Crab Handling BMPs ○ Bio-medical Horseshoe Crab Allowable Harvest ○ Research Pilot Aggregate Program - Eligibility Requirements ○ Cooperative Multi-State Possession and Landing Pilot Program for Summer Flounder - Term of Program ○ Cooperative Multi-State Possession and Landing Pilot Program for Summer Flounder – Permit Conditions ○ Cooperative Multi-State Possession and Landing Pilot Program for Summer Flounder – Addition of Black Sea Bass (no attachment) ○ Summer Flounder Exemption Certificate Program – Application for Transfer ○ Summer Flounder Exemption Certificate Program – Transfer of Certificate Upon Transfer/Sale of Vessel ○ Summer Flounder Exemption Certificate Program – Time Period to Apply the Exemption Certificate to a Replacement Vessel upon Transfer/Sale ○ Summer Flounder Exemption Certificate Program – Splitting Certificate from Federal Permit
<p>5. Any other matters</p>		
<p>6. Adjourn</p>		

All RIMFC Meetings are open to the public

Posted to Sec. of State Open Meetings pursuant to R.I. Gen. Laws § 42-46-6 on December 1, 2020



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

MEETING SUMMARY

November 2, 2020

Zoom webinar virtual meeting

Chairperson: B. Ballou

RIMFC members in attendance: T. Barao, A. Dangelo, K. Eagan, J. Jarvis, D. Monti, C. Rein, M. Rice, D. Monti, M. Roderick

Director's office: J. McNamee

Division: C. McManus, S. Olszewski, J. Lake, N. Costa, N. Ares, C. Parkins, M. Bucko, P. Duhamel, N. Ameral

DEM Legal: J. LoBianco

Public: Approximately 10 persons in attendance.

1. Approval of the agenda: The Chair inquired to any objections to approving the agenda or if there were any requests for modifications; hearing no objections or requests or modifications the agenda was approved by consent.
2. Approval of minutes from meeting on June 1, 2020: The Chair inquired to any objections to approving the minutes or if there were any requests for modifications; hearing no objections or requests or modifications the minutes were approved by consent.
3. Public comments regarding any other matters not on agenda: No comments were offered.
4. Horseshoe crab assessment update: N. Ameral provided an update on the status of the horseshoe crab stock assessment being conducted by the Division.
5. Noticed regulation amendments (Part 2 - Commercial and Recreational Saltwater Fishing Licenses):
 - The following items were handled by the Council in a single motion:
 - Correction to activity standard criteria for the issuance of a new license in instances of Incapacity (section 2.7.5(D)(1)(b)(2))
 - Amend the activity standard criteria for the date that landings must have occurred, from 2006 to 2010, for the issuance of new licenses in instances of incapacity (section 2.7.5(D)(1)(b)(2))

- Clarify eligibility requirements regarding the issuance of a new license in instances of incapacity (section 2.7.5(E)(5)(a))
- Add prioritization criteria for the issuance of new licenses and endorsements for veterans to account for fishing activity lost during active duty (section 2.7.5(G)(1)(f))

Motion made by D. Monti to recommend adoption of the proposed rule with a change of the word “conscription” as noticed to “enlistment”, and change the 10-year time frame from a hard date to a rolling 10-year timeframe; 2nd by M. Rice. The motion passed 8-0.

- Direct Sale Dealer License (section 2.7.9(F)): The following motions were made:
 - Motion made by C. Rein to recommend to the Director adoption of the regulatory language as proposed for addition of the Direct Sale Dealer License to Part 2 – Commercial Licensing as amended; 2nd by K. Eagan. The motion passed 8-0.
 - Motion to amend made by M. Rice that the final rule provide for allowance that the product to be sold within 24 hours from time of landing, instead of on the same day as noticed; 2nd by C. Rein. The motion passed 8-0.
 - Motion to amend made by D. Monti to set the license fee to \$50; 2nd by C. Rein. The motion passed 8-0.
 - Motion to amend made by D. Monti to add sea and bay scallop meats to the list of species authorized for sale under the license; 2nd by C. Rein. The motion passed 8-0.
 - Motion to amend made by K. Eagan to add live whelk to species eligible for transport; 2nd by M. Rice. The motion passed 8-0.

6. Aquaculture lease application review (John & Patrick Bowen):

- Motion made by C. Rein to recommend to the CRMC that override area 1 of this aquaculture lease application is consistent with competing uses engaged in the exploitation of the marine fisheries and minimizes impacts compared to override area 2; 2nd by M. Rice. The motion was withdrawn after discussion.
- Motion made by C. Rein to recommend to the CRMC that this aquaculture lease application be remanded to the RIMFC Shellfish Advisory Panel for additional review as the lease application has been modified since being noticed; 2nd by M. Rice. The motion failed 5-3 (J. Jarvis, M. Rice, T. Barao, M. Roderick, A. Dangelo dissenting).
- Motion made by M. Rice to recommend to the CRMC that override area 1 of this aquaculture lease application is consistent with competing uses engaged in the exploitation of the marine fisheries and minimizes impacts compared to override area 2; 2nd by T. Barao. The motion failed 6-2 (C. Rein, M. Roderick, J. Jarvis, D. Monti, K. Eagan, A. Dangelo dissenting).

7. Shellfish harvest schedules in Greenwich Bay and Bissel Cove/Fox Is. Shellfish Management areas: Motion by K. Eagan to recommend to the Director adoption of the proposed amendments to the December 2020 harvest schedules as recommended by the Shellfish Advisory Panel as follows:

Open from 8:00 AM to 12:00 PM on December ~~11, 13, 16, 18, 20, 23, 24, 26, 27, 30, and 31~~ 9, 11, 14, 16, 18, 21, 22, 23, 24, 28, 29, 30. If one of the dates are closed due to water quality impairment, December 31 will open for harvest.

8. Shellfish Advisory Panel meeting minutes (9/2/20): The Chair inquired to any objections to approving the minutes or if there were any requests for modifications; hearing no objections or requests or modifications the minutes were approved by consent.
9. Shellfish Advisory Panel Scientific Advisor position: M. Rice offered to fill the position which was unanimously supported by the other Council members.
10. Any Other Matters: No other matters were discussed.
11. Adjournment: The meeting was adjourned by the Chair at @ 8:15pm.

Note: This document represents a meeting summary. The full video recording of the meeting is available at the Division of Marine Fisheries YouTube channel [here](#). Individual agenda items and their times can be viewed by expanding the “SHOW MORE” tab.

From: [McNamee, Jason \(DEM\)](#)
To: [Duhamel, Peter \(DEM\)](#)
Cc: [brian loftes](#)
Subject: RE: [EXTERNAL] : FLUKE
Date: Wednesday, November 11, 2020 1:29:53 PM

Peter, the comment below is for the public record.

Thanks!

-J

From: brian loftes <bkloftes@live.com>
Sent: Wednesday, November 11, 2020 1:20 PM
To: McNamee, Jason (DEM) <jason.mcnamee@dem.ri.gov>
Subject: [EXTERNAL] : FLUKE

Jason I would like to express my opposition to a weekly fluke limit.

We went to great lengths to change last year's change, back to a biweekly limit so I hope we will remain with biweekly.

How ever the limit works out is fine as long as we have to weeks to catch them.

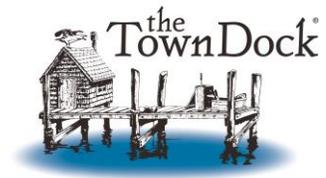
Thanks, Brian

From: BRENT LOFTES <bloftes@hotmail.com>
Sent: Monday, November 9, 2020 5:12 PM
To: Lake, John (DEM) <john.lake@dem.ri.gov>
Subject: Re: [EXTERNAL] : Brent Loftes

Hi John, I am unable to attend the zoom meeting that is happening this evening. Regarding the weekly vs. biweekly proposal for the fluke aggregate this winter I am in favor of the bi-weekly opposed to the weekly possession limit. I know I spoke to you on the phone about it. The weather is usually an issue and sometimes takes 2 weeks to be able to get out so when we are able to get offshore safely we obviously want to catch as many as we're allowed to limit our exposure. And also due to the COVID situation, if prices are going to be lousy like they have been then we would want to catch as many as possible to compensate for lame prices. Thank you for your consideration. If there is a more formal place I should be posting my comments could you please let me know where to find it.

Thanks Again.

Brent Loftes
F/V Asher & Ariana
401.363.6495



45 STATE STREET | PO BOX 608
NARRAGANSETT, RI 02882

RI DEM
235 Promenade
Providence, RI 02908

Dear Mr. Duhamel,

We would like to ask DEM to consider our suggestions for the 2021 trip limits for both fluke black sea bass.

We suggest:

Fluke: 4,000-pound bi-weekly limit starting January 1st 2021

Black Sea Bass: 750-pound weekly limit starting January 1st 2021

Starting with such limits will spread the quota out more and not leave the possibility of a glut of fish at the end of the fishery period, crashing prices.

Thank you for considering our suggested trip limits.

Sincerely,

Katie Almeida
Fishery Policy Analyst



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INFO@TOWNDOCK.COM
PH 401-789-2200 | FAX 401-782-4421

Kenneth T Murgo
Trident Fisheries LLC.
RI MP License #001365
Kenneth.Murgo@gmail.com
(401) 368-4397

November 20, 2020

Subject: Written Comments on Proposed Commercial Black Sea Bass Regulations for 2021

Dear RIMFC,

I am writing in support of the industry proposal which I made to adjust the summer and fall seasons and allocations for 2021 Black Sea Bass (BSB) management. The inspiration for my proposal came when this past summer the July sub-period ended without filling its allocated quota. I asked the Division of Marine Fisheries if there was any possibility of keeping the season open into August. I was informed that because August was closed by regulation that it would be difficult but not impossible to re-open the fishery to consume the un-used quota. The final conclusion was that because the leftover quota was only enough to support a short opening that it was not feasible.

This got me thinking; in every summer and fall sub-period in 2020 the daily limit was doubled to 100lbs per day early in the sub-period. However, if the daily limits were left at 50lbs per day there would have been un-used quota in each of those sub-periods that could have been allocated to August to keep the fishery open. I can personally attest that last August I caught BSB in the upper, middle and lower Narragansett Bay, as well as around the oceanfront, Block Island and Coxes ledge. It is not a stretch to say that every single RI commercial fisherman has access to BSB in August. Having the BSB season closed while the fish are so abundant and widespread in RI waters is inefficient, uneconomical, and causes unnecessary discards. With the increase in BSB quota RI received last year I believe having the fishery open the entire time BSB are plentiful in RI waters should be prioritized over increasing the daily limit. The warm waters of August bring on a natural lull in the lobster and whelk fisheries that many fishermen rely on; being able to land BSB at this time would be a boon to all RI commercial fishermen. Scup trapping is an option some of us turn to, but it really hurts our profitability to have to discard the valuable BSB that come up in the traps along with scup all August long.

What I tried to create with my proposal was a fishery that could be open from May 1st to Dec 31st at 50lbs per day without having any closures if the quota allows. I did not want to mess with the winter sub-period as that is the realm of offshore fishermen and I support their proposal to start that sub-period at 750lbs/day. That leaves us with 75% of the quota to allocate from 5/1 to 12/31. I am open to any suggestions as to alternative sub-period dates and quota allocations that accomplish the goal of having the fishery open while BSB are abundant in RI waters. In re-organizing the sub-periods to accomplish this goal I tried to make minimal changes to the existing framework while keeping in mind that the Division of Marine Fisheries needs at least 10% quota to properly manage a sub-period.

Thank you for your consideration,
Ken Murgo

From: [Michael Matulaitis](#)
To: [Duhamel, Peter \(DEM\)](#)
Subject: [EXTERNAL] : Flounder exemption
Date: Friday, November 13, 2020 3:38:29 PM

November 10, 2020

Michael Matulaitis
F/V Rose Marie
6 Sherwood Court
Old Tappan, NJ 07675

Dear Mr. Lake and Mr. Duhamel,

My name is Michael Matulaitis 111 Wintergreen Ln., Brewster, MA. I have held a RI nonresident restricted finfish license for 27 years. Prior to this, I held an instate multipurpose landing permit for 9 years. The F/V Rose Marie has landed Summer Flounder in RI from May 1985-August of 2018.

My partner Frank Mazza and I owned the F/V Rose Marie before it caught fire in August of 2018. Rose Marie Inc. is a Rhode Island corporation and the federal permits are held there until replaced by another vessel or sold. My name and Rose Marie are on the current Summer Flounder certificate of exemption number 90, issued on 12/14/1995.

The Rose Marie's federal permits are held in Confirmation of Permit History (CPH). The vessel was a complete loss and the insurance company sold the vessel to another entity and it retains the same federal permit number but not the same Moratorium Rights Identifier Number (MRI). This is confusing. The application for RI Summer Flounder Exemption Renewal went to the new owner of the hull. I found out about the new process from another fisherman. Our exemption could have been in jeopardy had I not been notified.

I urge the DEM to consider using federal identifiers such as CPH and MRI for vessel replacement and permit history for this renewal process. F/V Rose Marie fished for Summer Flounder exclusively in federal waters. I would also recommend dropping the gross and net tonnage requirements for vessel replacement as per federal regulations.

In closing, Rose Marie Inc. should not lose any fishing rights in RI with the implementation of these new proposed rules.

Sincerely,

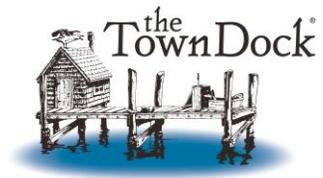
Michael Matulaitis
(508) 280-0490

From: David Borden <lizzy.2@charter.net>
Sent: Friday, November 20, 2020 8:50 AM
To: Mcmanus, Conor (DEM) <Conor.McManus@dem.ri.gov>
Subject: [EXTERNAL] : Multi state landing program

Thanks for answering my questions yesterday.

I would like to make one point in regards program administration and how it affects discards. If the Division intends to continue the multi-state landing initiative, I suggest you do so in a broader context than the current single species effort. Example: If RI and Conn agree to multi state landing program for summer flounder, it may also make sense to consider inclusion of other species like black sea or scup, as all three species are generally captured during the summer period. My concern is that you don't want to set up an incentive which encourages vessels to discard some species in order to meet the summer flounder landing requirements of the sister state. That could be avoided if you broadened the species in the program.

Obviously this needs to be discussed /negotiated on a state by state basis, so I think the Division should retain the authority to determine which species are included in the program.



45 STATE STREET | PO BOX 608
NARRAGANSETT, RI 02882

RI DEM
235 Promenade
Providence, RI 02908

Dear Mr. Duhamel,

We would like to ask DEM to consider the following requests to the RI permitting system:

1. Remove 90-day limit to apply Exemption Certificate to a new vessel. We do not feel that a time frame should be necessary when looking to replace a vessel. It can take years to find the right size/tonnage vessel to match the federal permit. If a time limit must be set that limit should be no less than 5 years.
2. Remove requirement that the Exemption Certificate be linked to vessel's federal permit. This would benefit the fishermen and the state of Rhode Island, by allowing the fishermen to keep the RI permit to put on their new vessel AND keep Rhode Island quota on Rhode Island vessels. This will allow the fishermen to retain the RI fluke permit history. Again, the 90-day limit needs to be expanded. Refer to my comments above.
3. Remove requirement that the Exemption Certificate be automatically transferred when change in vessel ownership occurs unless stated otherwise in a written agreement. For the same reasons above this will allow the fisherman to retain their RI exemption permit and keep RI fluke in RI.
4. Baselines. Requiring baselines for any of our fisheries would only add a burden on the vessel owner as they are not necessary due to the quotas that we have on our state species. I would like to request that the DEM consider removing the requirements for baselines altogether.

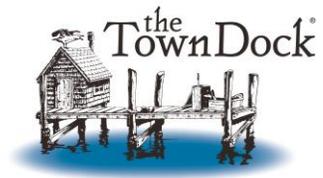
Thank you very much for considering our comments.

Sincerely,

Katie Almeida
Fishery Policy Analyst



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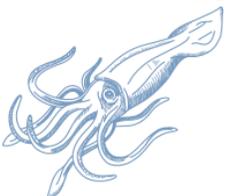
November 19th, 2020

Peter Duhamel
DEM Division of Marine Fisheries
3 Fort Wetherill Road
Jamestown, RI 02835

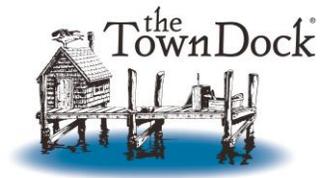
Dear Mr. Duhamel,

I am writing to suggest the following for 2021 fishery regulations:

1. Black sea bass: We are in favor of the industry proposal that increases the Winter 1 starting possession limit to 750 lbs/vessel/week. We are not in favor of the industry proposal that increases the summer period, this would most likely result in an early shut down with the increased participation during that period. We are in favor of increasing the fall period possession limit to 100 lbs/vessel/day. We are not in favor of the option with removing the summer closure period, we do not believe there is enough fish to make it through the summer without avoiding a closure.
2. Fluke: We support the industry proposal that increases the Winter Aggregate program to 4,000 lbs/vessel/bi-weekly. If it seems as though the industry is going through the quota too fast DEM can always decrease the landings limit down to 2,000 pounds. Avoiding dropping below 2,000 pounds is important as it is hard to make a trip for 1,000 pounds at this time of year profitable.
3. We support the industry proposal removing the stipulation that an Exemption Certificate automatically stays with the vessel upon sale or transfer of the vessel. This will allow RI residents to keep their RI fluke permit. We also support the industry proposal that removes the requirement that an Exemption Certificate must remain attached to the federal permit on the vessel when it was initially issued.
4. We support the industry proposal that extends the time period for a vessel owner to apply their Exemption Certificate to a replacement vessel upon a sale or transfer. A five-year time frame would give the vessel owner ample time to search for and if needed schedule the repairs a vessel might need without the risk of them losing that permit. If the DEM is uncomfortable with that time frame perhaps the formation of a permit bank



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or a CPH style program could be constructed to retain these permits to avoid their loss.

5. We would also like to recommend that DEM remove any baseline requirements. With the quotas that we have on the species the state manages, it seems that baselines are an unnecessary restriction.
6. We support Rhode Island participation with Massachusetts in a multi-state landings agreement for black sea bass.

Thank you for taking the time to consider our suggestions.

Sincerely,

Katie Almeida
Fishery Policy Analyst



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Proposed amendments

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

250-RICR-90-00-3

TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 90 – MARINE FISHERIES

SUBCHAPTER 00 – N/A

PART 3 – Finfish

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3.1 Purpose

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

3.2 Authority

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

3.3 Application

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

3.4 Definitions

See Definitions and General Provisions, Part [1](#) of this Subchapter.

3.5 Severability

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

3.6 Superseded Rules and Regulations

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

3.7 Black Sea Bass

3.7.1 Recreational

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

1. January 1 through June 23: Closed
2. June 24 through August 31: Three (3) fish per person per calendar day
3. September 1 through December 31: Seven (7) fish per person per calendar day

3.7.2 Commercial

A. Minimum size: Eleven inches (11")

B. Seasons, allocations, and possession limits:

1. January 1 through April 30:
 - a. Allocation: Twenty-five percent (25%) of the quota.
 - b. Possession limit: ~~Five hundred~~ Seven hundred fifty (500750) pounds per vessel per week
2. May 1 through June 30:
 - a. Allocation: Twenty-five percent (25%) of the quota
 - b. Possession limit: ~~Fifty~~ One hundred (50100) pounds per vessel per calendar day
3. July 1 through ~~July 31~~ August 15:
 - a. Allocation: ~~Nineteen and one half~~ Twenty percent (~~19.520~~) of the quota
 - b. Possession limit: ~~Fifty~~ One hundred (50100) pounds per vessel per calendar day
4. August ~~1~~ 16 through September 14: ~~Closed~~
 - a. Allocation: Ten percent (10%) of the quota
 - b. Possession limit: Fifty (50) pounds per vessel per calendar day
5. September 15 through October 31:
 - a. Allocation: ~~Nineteen and one half~~ Ten percent (~~19.510~~) of the quota
 - b. Possession limit: ~~Fifty~~ One hundred (50100) pounds per vessel per calendar day

6. November 1 through December 31:
 - a. Allocation: ~~Eleven~~ Ten percent (~~11~~10%) of the quota
 - b. Possession limit: ~~Fifty~~ One hundred (~~50~~100) pounds per vessel per calendar day
- C. Minimum mesh size – otter trawl:
1. Owners or operators of otter trawl vessels possessing greater than five hundred (500) pounds of black sea bass from January 1 through March 31; or greater than one hundred (100) pounds of black sea bass from April 1 through December 31, may only use nets that have a minimum mesh size of four and one half inches (4-1/2") diamond mesh (inside measure) applied throughout the codend for at least seventy-five (75) continuous meshes forward of the terminus of the net; or, for trawl nets with codends (including an extension) less than seventy-five (75) meshes, the trawl net must have a minimum mesh size of four and one half inches (4-1/2") diamond mesh throughout.
 2. Vessels possessing trawl devices while harvesting black sea bass in excess of the possession limits specified herein may have nets onboard the vessel that have a mesh size less than the minimum size specified in the Regulations provided that the net is stowed and is not available for immediate use.
- D. Black sea bass pot construction
1. All black sea bass pots must be constructed with two (2) escape openings in the parlor portion of the pot. Openings may be circular, rectangular, or square, and must be a minimum of two and one half inches (2-1/2") diameter if circular, one and three eighths inches (1-3/8") by five and three quarters inches (5-3/4") if rectangular, two inches (2") by two inches (2") if square. Escape vents must be attached with biodegradable fasteners which allow vents or panels to fall away from the trap after loss.
 2. The hinges or fasteners of one (1) panel or door must be made of one (1) of the following degradable materials:
 - a. Un-treated hemp, jute, or cotton string three sixteenths of an inch (3/16") or smaller;
 - b. Magnesium alloy, timed float releases (pop-up devices) or similar magnesium alloy fasteners;
 - c. Un-galvanized or uncoated iron wire of three thirty seconds of an inch (3/32") or smaller; or

- d. If "bungee" cord or other elasticized material is used to fasten the top, it must be secured to the trap with a degradable hog ring.

3.8 Scup

3.8.1 Recreational

- A. Minimum size: Nine inches (9")
- B. Season: January 1 through December 31
- C. Possession limit: Thirty (30) fish per person per calendar day
- D. Special shore angling sites:
 - 1. Locations: India Point Park, Providence; Conimicut Park, Warwick; Rocky Point, Warwick; Stone Bridge, Tiverton; East and West Walls (Harbor of Refuge), Narragansett; Fort Wetherill, Jamestown; and Fort Adams, Newport
 - 2. Minimum size: Eight inches (8")
 - 3. Season: January 1 through December 31
 - 4. Possession limit: Thirty (30) fish per person per calendar day
- E. Licensed Party and Charter vessels seasons and possession limit:
 - 1. January 1 through August 31: Thirty (30) fish per person per calendar day
 - 2. September 1 through October 31: Fifty (50) fish per person per calendar day
 - 3. November 1 through December 31: Thirty (30) fish per person per calendar day

3.8.2 Commercial

- A. Minimum size: Nine inches (9")
- B. Seasons, quotas and possession limit:
 - 1. January 1 through April 30 (federal Winter I) possession limit: Fifty thousand (50,000) pounds per vessel per calendar day, decreasing to one thousand (1,000) pounds per vessel per calendar day once eighty percent (80%) of the federal Winter I coastwide scup quota has been harvested as determined by NOAA Fisheries

2. May 1 through September 30: The State quota for this sub-period will be divided as follows:
 - a. General Category (gear types other than floating fish traps): Forty percent (40%)
 - (1) Possession limit: Ten thousand (10,000) pounds per vessel per calendar week
 - b. Floating fish trap: Sixty percent (60%)
 - (1) During years in which the federal Winter I coastwide scup quota is exhausted prior to April 15, the floating fish trap quota will be available on April 15. During years in which the federal Winter I coastwide scup quota is not exhausted prior to April 15, the floating fish trap quota will be available on May 1.
 - (2) If the DEM estimates that the floating fish trap sector will not fully utilize its scup allocation prior to the end of the Summer-Fall sub-period, beginning on June 15, the DEM may transfer the floating fish trap sector allocation to the general category sector. DEM will consult with the floating fish trap operators or their designee prior to enacting any allocation transfer, and will maintain written correspondence in the form of a letter on file as proof of said consultation.
 - (3) If the DEM estimates that the floating fish trap sector has a reasonable likelihood of utilizing its quota prior to the end of the sub-period, a portion of any unused allocation that was transferred to the general category sector may be transferred back to the floating fish trap sector. Any quota that was transferred from the general category sector to the floating fish trap sector shall not exceed the amount that may have been transferred from the floating fish trap sector to the general category sector.
 - (4) Reporting: Floating fish trap operators shall report landings of scup to Standard Atlantic Fisheries Information System (SAFIS) every Monday, Wednesday, and Friday, of every week that the trap is in operation. If there is non-compliance with this reporting requirement, the floating fish trap operators will be notified and will default to the following program:
 - (AA) April 15 through September 30: During those years in which the federal Winter I coastwide scup quota is exhausted prior to April 15, the floating fish trap quota

will be available on April 15. The possession limit will be twenty-five thousand (25,000) pounds per floating fish trap per calendar day. Once ninety percent (90%) of the sub-period allocation is projected to be harvested, the possession limit will be five thousand (5,000) pounds per fish trap licensee per calendar day until one hundred percent (100%) of the quota has been harvested.

(BB) May 1 through September 30: During those years in which the federal Winter I coastwide scup quota is not exhausted prior to April 15, the floating fish trap quota will be available on May 1. The possession limit will be twenty-five thousand (25,000) pounds per floating fish operator per calendar day. Once ninety percent (90%) of the sub-period allocation is projected to be harvested, the possession limit will be five thousand (5,000) pounds per fish trap licensee per calendar day until one hundred percent (100%) of the quota has been harvested.

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

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

C. Minimum mesh size – otter trawl:

1. Owners or operators of otter trawl vessels possessing greater than one thousand (1,000) pounds of scup from October 1 through April 14; or

greater than two thousand (2,000) pounds of scup from April 15 through June 15; or greater than two hundred (200) pounds of scup from June 16 through September 30, may only fish with nets that have a minimum mesh size of five inches (5") diamond (inside measure) or square mesh with a minimum length of seventy-five (75) meshes from the terminus of the net. For nets with less than seventy-five (75) mesh cod ends, the entire net will be five inches (5") minimum size diamond or square mesh.

2. Vessels possessing trawl devices while harvesting scup in excess of the possession limits specified herein may have nets onboard the vessel that have a mesh size less than the minimum size specified in the Regulations provided that the net is stowed and is not available for immediate use.

D. Scup pots:

1. Pot limits: Each person utilizing pots in the scup fishery shall be ~~permitted~~authorized to ~~fish~~deploy up to one hundred fifty (150) pots regardless of the number of licenses on board the vessel.
2. Pot construction – escape vents: All scup pots must be constructed with escape openings. Openings may be circular, rectangular, or square, and must be a minimum of three and one tenth inches (3-1/10") diameter, two and one quarter inches (2-1/4") by five and three quarter inches (5-3/4") if rectangular or may be constructed of two and one quarter inches (2-1/4") by two and one quarter inches (2-1/4") wire mesh. Escape vents must be attached with biodegradable fasteners which allow vents or panels to fall away from the trap after loss.
3. The hinges or fasteners of one (1) panel or door must be made of one (1) of the following degradable materials:
 - a. Un-treated hemp, jute, or cotton string three sixteenths of an inch (3/16") or smaller;
 - b. Magnesium alloy, timed float releases (pop-up devices) or similar magnesium alloy fasteners;
 - c. Un-galvanized or uncoated iron wire of three thirty seconds of an inch (3/32") or smaller; or
 - d. If "bungee" cord or other elasticized material is used to fasten the top, it must be secured to the trap with a degradable hog ring.

3.9 Striped Bass

3.9.1 Recreational

- A. Minimum size: Twenty-eight inches (28")

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

F. The use of circle hooks is required by any vessel or person while fishing recreationally with bait for striped bass.

3.9.2 Commercial

A. General Category:

- 1. Minimum size: Thirty-four inches (34") or greater.
- 2. Allocation: Sixty-one percent (61%) of the annual Rhode Island commercial quota.
- 3. Seasons and possession limits:
 - a. January 1 through May 19: Closed.
 - b. May 20 through June 30:
 - (1) Allocation: Sixty percent (60%) of the general category quota
 - (2) Possession limit: Five (5) fish per person per calendar day, or if fishing from a vessel, five (5) fish per vessel per calendar day
 - (3) The fishery will be closed in each calendar week on Friday, Saturday and Sunday during this sub-period. There will be no commercial possession or sale of striped bass on these days for general category commercial fishermen.
 - c. July 1 through December 31:
 - (1) Allocation: Forty percent (40%) of the general category quota.
 - (2) Possession limit: Five (5) fish per person per calendar day, or if fishing from a vessel, five (5) fish per vessel per calendar day.

- (3) The fishery will be closed in each calendar week on Friday, Saturday and Sunday during this sub-period. There will be no commercial possession or sale of striped bass on these days for general category commercial fishermen.
4. If DEM estimates that the floating fish trap sector will not fully utilize its striped bass allocation prior to the end of the season, the DEM may transfer all or a portion of the floating fish trap sector allocation into the general category fishery. DEM will consult with the floating fish trap licensees or their designee prior to enacting any such transfer, and will maintain written correspondence of this consultation.
5. Floating fish trap allocation that has been transferred to the general category fishery in accordance with § 3.9.2(A)(4) of this Part may be transferred back to the floating fish trap fishery. Any allocation transferred back to the floating fish trap fishery shall not exceed the amount of the original transfer.

B. Floating Fish Traps:

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

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

D. Hybrid or Cultured Striped Bass:

1. Aquaculture-reared striped bass or hybrid striped bass brought into Rhode Island for sale or resale, which is wholly or partially processed, except for cultured striped bass or hybrid striped bass from a fish farm or processor which are a fully processed and packaged product whether fresh or frozen, shall have affixed to it a tag identifying it as an aquaculture product.

2. Packages, containers, and each fish or fish product containing aquaculture products shall be tagged or labeled with a uniform series of fourteen (14) digit numbers and letters as shown in the example below:

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

3. Each fish or fish product shall have affixed to it a tag bearing the same information listed in § 3.9.2(D)(2) of this Part.

4. The sale of this product shall be accompanied by a receipt showing:

- a. The date of sale;
- b. Name, address, and permit number of the aquaculture facility;
- c. Numbers and species of striped bass sold;
- d. Name of purchaser.

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

6. The consignee of each subsequent sale shall retain a copy of the bill of lading or similar accountable document for one (1) year, and make it available to the Department upon request.

E. Commercial Striped Bass Tags: Each individual striped bass shall be immediately marked with tags available from DEM. No striped bass may be sold unless it has been properly identified with such tag. DEM may designate tagging

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

3.10 Summer Flounder

3.10.1 Recreational

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

3.10.2 Commercial

- A. Minimum size: Fourteen inches (14")
- B. Seasons, allocations, and possession limits:
 - 1. January 1 through April 30:
 - a. Allocation: Fifty-four percent (54%) of the annual quota
 - b. Possession limit between January 1 and the start of the Winter sub-period of the Aggregate Landing Program:
 - (1) Vessels that possess a valid Rhode Island Summer Flounder Exemption Certificate (~~Exemption Certificate~~): One hundred (100) pounds per vessel per calendar day

- (2) Vessels that do not possess a valid Summer Flounder Exemption Certificate: One hundred (100) pounds per vessel per calendar day
 - c. Possession limit during the Winter sub-period of the Aggregate Landing Program:
 - (1) Vessels not permitted in the Aggregate Landing Program but which possess a valid Summer Flounder Exemption Certificate: One hundred (100) pounds per vessel per calendar day
 - (2) Vessels that do not possess a valid Summer Flounder Exemption Certificate: One hundred (100) pounds per vessel per calendar day
 - (3) Aggregate Landing Program: ~~Two thousand (2,000) pounds per vessel per bi-week~~ One thousand pounds per vessel per week. The ~~bi-weekly~~ periods shall be specified in the Aggregate Landing Permit.
 - (4) The Aggregate Landing Program will terminate when ninety percent (90%) of the Winter sub-period quota has been harvested and the possession limit shall be one hundred (100) pounds per vessel per calendar day.
2. May 1 through September 15:
 - a. Allocation: Thirty-five percent (35%) of the annual quota
 - b. Possession limit:
 - (1) Vessels that possess a valid Summer Flounder Exemption Certificate: One hundred (100) pounds per vessel per calendar day
 - (2) Vessels that do not possess a valid Summer Flounder Exemption Certificate: One hundred (100) pounds per vessel per calendar day
3. September 16 through December 31:
 - a. Allocation: Eleven percent (11%) of the annual quota
 - b. Possession limit:

- (1) Vessels that possess a valid Summer Flounder Exemption Certificate: One hundred (100) pounds per vessel per calendar day
- (2) Vessels that do not possess a valid Summer Flounder Exemption Certificate: One hundred (100) pounds per vessel per calendar day

C. Aggregate Landing Program:

1. Sub-periods Applicability: Authorizes the aggregate possession limit of summer flounder.
2. Season: Begins on the Sunday of the first full week in January through April 30, or until ninety percent (90%) of the Winter sub-period quota has been harvested as determined by the DEM.
3. Permit required: A permit issued from the Director is required to participate in the Aggregate Landing Program. Permit applications shall be completed on forms as prescribed by the Director. Applications not completed in their entirety shall not be considered

~~Winter: Beginning on the Sunday of the first full week in January through April 30, or until ninety percent (90%) of the Winter sub-period quota has been harvested as determined by the DEM.~~

24. 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 demonstrate~~ the following:
 - a. The vessel, if harvesting summer flounder from Federal waters, possesses holds a valid Federal Summer Flounder Moratorium Permit and Rhode Island Summer Flounder Exemption Certificate ~~(Exemption Certificate)~~ issued pursuant to Part 14 of this Subchapter;
 - b. The vessel's operator, if harvesting exclusively in State waters, holds a valid Rhode Island Commercial Fishing License to harvest or land summer flounder and possesses a valid Summer Flounder Exemption Certificate;
 - c. The vessel's operator has not been assessed a criminal or administrative penalty ~~in the past three (3) years for a violation of this section or has more than one (1) marine fisheries violation for~~ violations of state or federal commercial fishing regulations or laws within the past three (3) years.

- d. Applicants must be in compliance with commercial fishing data reporting requirements pursuant to Part 2 of this Subchapter.
- ~~3. Application: Application for an Aggregate Landing Program Permit shall be made on forms as prescribed by the Director.~~
- 5. Permit conditions:
 - a. Participants must maintain compliance with commercial fishing data reporting requirements pursuant to Part 2 of this Subchapter.
 - b. Permits are non-transferable. Only vessels authorized by the Director may participate in the pilot program.
 - c. Permits are valid only for the calendar year issued.
- 46. Penalties for non-compliance:
 - a. In addition to the penalties for non-compliance specified in § 1.11 of this Subchapter, 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.
 - b. The Director may also revoke, in writing, the authorization to participate in this Program, should the Director determine that such program participant has been assessed a criminal or administrative penalty for violations of state commercial fishing regulations or for violations of federal commercial fishing regulations or laws, within the past three (3) years.

D. Minimum mesh size – otter trawl:

1. Owners or operators of otter trawl vessels possessing one hundred (100) pounds or more of summer flounder per day from May 1 through October 31; or two hundred (200) pounds or more of summer flounder per trip from November 1 through April 30, must fish with nets or combinations of nets that have a minimum mesh size of five and one half inches (5-1/2") diamond, or six inches (6") square mesh applied throughout the body, extension(s) and cod end portion of the net.
2. Vessels possessing trawl devices while harvesting summer flounder in excess of the possession limits specified herein may have nets onboard

the vessel that have a mesh size less than the minimum size specified in the Regulations provided that the net is stowed and is not available for immediate use.

- E. Summer flounder may be landed between the hours of 6:00 AM to 8:00 PM only;
- F. Control Date: A control date of December 31, 2010, is established for the commercial summer flounder fishery in Rhode Island. This control date has been established by the Department for potential future use in establishing eligibility criteria for future access to the fishery.

3.11 Tautog

3.11.1 Recreational

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

- f. Licensed Party/charter vessels are not subject to the ten (10) fish per vessel per calendar day restriction.

3.11.2 Commercial

- A. Minimum size: Sixteen inches (16")
- B. Seasons, allocations, and possession limit:
 - 1. January 1 through March 30: Closed
 - 2. April 1 through May 31:
 - a. Allocation: Forty-two and one half percent (42.5%) of the annual quota
 - b. Possession limit: Ten (10) fish per vessel per day
 - 3. June 1 through July 31: Closed
 - 4. August 1 through September 15:
 - a. Allocation: Fifteen percent (15%) of the annual quota
 - b. Possession limit: Ten (10) fish per vessel per day
 - 5. September 16 through October 14: Closed
 - 6. October 15 through December 31:
 - a. Allocation: Forty-two and one half percent (42.5%) of the annual quota
 - b. Possession limit: Ten (10) fish per vessel per day
- C. Commercial tautog tagging
 - 1. No tautog shall be sold, purchased, bartered, or traded in Rhode Island unless a tautog tag issued by the Director has been affixed to the left opercula bone with the tag number displayed.
 - 2. All tautog harvested and landed in Rhode Island must be tagged at the time of harvest, prior to offloading.
 - 3. Eligibility: Tags shall be available only to Rhode Island commercially licensed fishermen authorized to harvest and/or land tautog.
 - 4. No person shall transfer tautog tags between individuals or fish.

5. Tags are valid for one (1) calendar year.
6. All unused tags shall be returned to DMF by February 15 of the following year accompanied by the tag reporting form with the disposition of all tags (used, returned, broken, or lost) recorded. Failure to return tags and reports may result in the harvester's inability to participate in the commercial tautog fishery in the future.
7. No person shall reuse, counterfeit, alter, or modify any tautog tag, or possess, use, or attempt to use any counterfeit, altered or modified tags. Any person found in violation may be prohibited from participating in the commercial tautog fishery in the future.
8. Tautog must remain tagged until they reach the final consumer. Processed or fileted tautog shall be packed with the tag and available for inspection, with tags retained until all process or fileted tautog are sold.
9. This section shall become effective on January 1, 2020.

3.12 American Eel

3.12.1 Recreational

- A. Minimum size: Nine inches (9")
- B. Season: January 1 through December 31
- C. Possession limit: Twenty-five (25) fish per angler per day
- D. Licensed Party and Charter vessel season and possession limit:
 1. Season: January 1 through December 31
 2. Possession limit: Fifty (50) fish per angler per day for the licensed captain and any employed crew member; and twenty-five (25) fish per angler per day for any paying customer

3.12.2 Commercial

- A. Minimum size: Nine inches (9")
- B. Season: January 1 through December 31
 1. Closed season: September 1 through December 31 for any gear type other than baited traps/pots or spears
- C. Possession limit: Unlimited

- D. Commercial eel pot restrictions: Eel pots shall have a minimum mesh size of one half inch (½”) by one half inch (½”).

3.13 American Plaice

3.13.1 Recreational

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

3.13.2 Commercial

- A. Minimum size: Twelve inches (12”)
- B. Fishing year: May 1 through April 30
- C. Possession limit:
 - 1. There is no commercial possession limit for american plaice provided the vessel is fishing in State waters and does not have a Federal permit authorizing the commercial harvest of american plaice.
 - 2. Vessels in possession of a Federal permit authorizing the commercial harvest of american plaice in Federal waters may harvest american plaice in State waters in the amount equal to the Federal Regulations.

3.14 American Shad

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

3.15 Atlantic Herring

3.15.1 Commercial

- A. Season: January 1 through December 31
- B. Possession limit: Two thousand (2,000) pounds per vessel per day, unless the vessel holds a Rhode Island State Waters Atlantic Herring Fishing Permit
- C. Rhode Island State Waters Atlantic Herring Fishing Permit: A permit from DEM is required for vessels engaged in the fishing and/or processing of over two thousand (2,000) pounds of atlantic herring per day in Rhode Island State waters.

1. Issuance of this permit is contingent on fishing vessel captains attending a meeting with DEM staff where they are required to give proof that:
 - a. The vessel and its captain(s) have obtained all necessary and applicable authorizations to fish for atlantic herring in Rhode Island 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 Rhode Island waters;
 - d. The vessel captain(s) have received from DEM a copy of all applicable Regulations governing the commercial harvest of atlantic herring in Rhode Island waters.
 2. Permits shall be issued annually and are valid for one (1) calendar year from January 1 to December 31.
 3. Issuance of the permit is contingent upon a background check to determine if the applicant captain or vessel has been assessed a criminal or administrative penalty in the past three (3) years of this section or § 3.25 of this Part (river herring) or more than one (1) marine fisheries violation.
- D. River Herring Bycatch Allowance: Vessels possessing a Federal atlantic herring permit fishing in Federal waters may transit Rhode Island State waters and make a landing in possession of alewives, or blueback herring provided that the count of the combined river herring is five percent (5%) or less than the count of atlantic herring onboard the vessel.
1. The percentage of river herring in the catch will be assessed by sorting and counting a batch of fish taken from the catch of atlantic herring on board the vessel or being landed by the vessel. This determination as to the percentage of river herring in the catch shall be accomplished by filling a container as defined herein, with a portion of the catch and examining the contents of said container. The percentage of river herring in said container shall be deemed to be representative of the percentage of river herring in the catch as a whole for purposes of a determination as to whether a vessel is in compliance with the requirements of this section.
 2. A batch of fish is defined as all fish in a separate container.

3. A container is defined as any box, tote, bag, bucket or other receptacle capable of retaining at least twenty-five (25) gallons of loose fish which may be separated from the total catch of atlantic herring being landed.
- E. Atlantic Herring Processing: No person may process atlantic herring for purposes other than human consumption. Direct mealing of atlantic herring is prohibited.
- F. Vessel restrictions: No vessel harvesting atlantic herring in the atlantic coast herring fishery shall exceed one hundred sixty-five feet (165') in length overall, and three thousand (3,000) horsepower.

3.16 Atlantic Salmon

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

3.17 Atlantic Sturgeon

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

3.18 Bluefish

3.18.1 Recreational

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

3.18.2 Commercial

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

3.19 Coastal Sharks

3.19.1 Recreational

- A. Prohibited species. Taking or possessing any of the following shark species is prohibited: sandbar, silky, sand tiger, bigeye sand tiger, whale, basking, white, dusky, bignose, galapagos, night, reef, narrowtooth, caribbean sharpnose, smalltail, atlantic angel, longfin mako, bigeye thresher, sharpnose sevengill, bluntnose sixgill, and bigeye sixgill.
- B. Landings requirements: No person fishing recreationally shall possess or land sharks that do not have heads, tails, and fins attached naturally to the carcass. Sharks may be gutted and bled by making an incision at the base of the caudal peduncle provided the tail is not removed. No person fishing recreationally shall fillet a shark at sea or otherwise cut a shark into pieces at sea.
- C. Minimum size:
1. Smooth dogfish, atlantic sharpnose, finetooth, blacknose, and bonnethead shark: No minimum size
 2. Tiger, blacktip, spinner, bull, lemon, nurse, porbeagle, common thresher, oceanic whitetip, and blue shark: Minimum fork length is fifty-four inches (54").
 3. Scalloped hammerhead, smooth hammerhead, and great hammerhead shark: Minimum fork length is seventy-eight inches (78").
 4. Shortfin mako:
 - a. Females: Minimum fork length is eighty-three inches (83").
 - b. Males: Minimum fork length is seventy-one inches (71").
- D. Shore-based possession limits:
1. One (1) shark per person per calendar day, with one (1) additional bonnethead and one (1) additional atlantic sharpnose shark per person per calendar day
 2. Smoothhound sharks: Unlimited
- E. Vessel-based possession limits:
1. One (1) shark per vessel per calendar day, or per trip per calendar day, whichever is less, regardless of the number of people on board the vessel, with one (1) additional bonnethead and one (1) additional atlantic

sharpnose shark per vessel per calendar day, or per trip per calendar day, whichever is less

2. Smoothhound sharks: Unlimited
 3. Sharks that are transported by vessel are considered “boat assisted” and “vessel-based” regardless of how or where they were caught.
- F. Authorized gear: No person fishing recreationally shall take sharks by any method other than rod and reel or handline. Handlines are defined as a mainline to which no more than two (2) gangions or hooks are attached; retrieved by hand, not by mechanical means; and attached to, or in contact with, a vessel.
1. Any vessel using rod and reel, must adhere to the following:
 - a. Use corrodible circle hooks, except when fishing with flies or artificial lures; and
 - b. Maximize gear removal, as safely as possible, when releasing sharks.

3.19.2 Commercial

- A. Commercial species groups: Coastal sharks are grouped into commercial species groups as follows:
1. Prohibited: sand tiger, bigeye sandtiger, whale, basking, white, dusky, bignose, galapagos, night, reef, narrowtooth, caribbean sharpnose, smalltail, atlantic angel, longfin mako, bigeye thresher, sharpnose sevengill, bluntnose sixgill, blacknose, and bigeye sixgill shark
 2. Research: Sandbar shark
 3. Smoothhound: Smooth dogfish and florida smoothhound shark
 4. Non-Blacknose Small Coastal: Atlantic sharpnose, finetooth, and bonnethead shark
 5. Blacknose: Blacknose shark
 6. Aggregated Large Coastal: Silky, tiger, blacktip, spinner, bull, lemon, and nurse shark
 7. Hammerhead: Scalloped hammerhead, great hammerhead, and smooth hammerhead shark
 8. Pelagic: Shortfin mako, porbeagle, common thresher, oceanic whitetip, and blue shark

- B. Prohibited species: Taking or possessing any of the species of sharks in the Prohibited and Research species groups is prohibited.
- C. Fishing year: January 1 through December 31
- D. Quota specification:
 - 1. Smoothhound sharks: A total annual statewide quota will be established for the State by the ASMFC and/or NOAA Fisheries.
 - 2. Species groups other than smoothhound sharks will be established annually by the ASMFC and/or NOAA Fisheries.
- E. Seasons: Seasonal periods for commercial shark fisheries may be established annually either through NOAA Fisheries, ASMFC, or DEM.
- F. Possession limit:
 - 1. Smoothhound, non-blacknose small coastal, and pelagic shark species groups: Unlimited
 - 2. Aggregated large coastal and hammerhead species groups: Twenty-five (25) sharks per vessel per day, adjusting to between fifty-five (55) and zero (0) sharks per vessel per day during the fishing year as determined by NOAA Fisheries
 - 3. It shall be unlawful for any person to possess any species of shark in State waters when NOAA Fisheries prohibits the possession of that species in Federal waters.
- G. Display and research of sharks: No person shall possess, transport, sell or offer to sell any of the shark species listed in the Prohibited and Research Species groups without a valid State collector's permit obtained from the Director. Any person so authorized shall:
 - 1. Report to the Director within thirty (30) days of possession the species identification, length, weight, date, and location where caught by latitude and longitude coordinates, and the gear used; and
 - 2. For each shark taken for live display, the holder of the permit shall also report to the Director annually by December 31 for the life of the shark. The report shall include all of the information specified in the original report to the Director pertaining to the sharks, as well as updated information on the length and weight of the shark.
- H. Authorized sale: No person shall sell any shark species to a person or dealer who does not possess a Rhode Island Commercial Dealer License, and a Federal Commercial Shark Dealer Permit issued by the NOAA Fisheries.

- I. Authorized commercial gear: No person shall take or possess sharks using any method other than the following gear types:
 1. Rod and Reel. Any vessel using Rod and Reel, must adhere to the following:
 - a. Use corrodible circle hooks; and
 - b. Maximize gear removal, as safely as possible, when releasing sharks.
 2. Handlines, which are defined as a mainline to which no more than two (2) gangions or hooks are attached. A handline is retrieved by hand, not by mechanical means, and must be attached to, or in contact with, a vessel;
 3. Small mesh gillnets which are defined as having a stretch mesh size smaller than five inches (5");
 4. Large mesh gillnets which are defined as having a stretch mesh size equal to or greater than five inches (5"). Any vessel using large-mesh gillnets, must use nets that are shorter than two and one half (2-1/2) 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; and
 - b. Practice the protocols, and possess the Federally-required release equipment, for pelagic and bottom longlines for the safe handling, release, and disentanglement of sea turtles and other non-target species; and
 - c. All captains and vessel owners must be certified in using, handling and release equipment. Captains and vessel owners can become certified by attending a Protected Species Safe Handling, Release, and Identification Workshop offered by NOAA Fisheries.
 7. Pound nets/fish traps;
 8. Weirs.
- J. Prohibition of finning: Finning is defined as the act of taking a shark and removing its fins. Finning of sharks is prohibited in all State waters. All sharks, with the exception of smoothhound, possessed by commercial fishermen within

State boundaries must have the tails and fins attached naturally to the carcass until landed. Fins may be cut as long as they remain attached to the carcass, by natural means, with at least a small portion of uncut skin. Sharks may be gutted and bled provided the tail is not removed. Sharks taken and possessed by commercial fishermen may have the heads removed, but no commercial fisherman shall fillet a shark at sea or otherwise cut a shark into pieces at sea.

1. Commercial fishermen may eviscerate and remove the head and all shark fins of smooth dogfish while at sea provided smooth dogfish make up at least twenty-five percent (25%), by weight, of total catch on board at the time of landing. Trips that do not meet the twenty-five percent (25%) catch composition requirement can land smooth dogfish, but the fins must remain naturally attached to the carcass. If fins are removed, the total wet weight of the shark fins may not exceed twelve percent (12%) of the total dressed weight of smoothhound carcasses landed or found on board a vessel. Commercial fishermen may retain other sharks on board provided the fins of other shark species remain naturally attached to the carcass through offloading.

3.20 Cod

3.20.1 Recreational

- A. Minimum size: Twenty-one inches (21")
- B. Possession limit: Ten (10) fish per person per day

3.20.2 Commercial

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

3.21 Haddock

3.21.1 Recreational

- A. Minimum size: Eighteen inches (18")
- B. Fishing year: May 1 through April 30
- C. Possession limit: Unlimited

3.21.2 Commercial

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

3.22 Menhaden

3.22.1 Recreational

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

3.22.2 Commercial

- A. Menhaden Management Area: Narragansett Bay in its entirety is designated a Menhaden Management Area pursuant to R.I. Gen. Laws § 20-4.1-1. This area shall include the east and west passages of Narragansett Bay, Mt. Hope Bay, and the Sakonnet River, and be bordered on the south by a line from Bonnet Point to Beavertail Point to Castle Hill Light. The southern boundary further extends from Land's End to Sachuest Point and then to Sakonnet Light. The

following Regulations govern all commercial menhaden operations conducted in the Menhaden Management Area (Management Area).

1. Opening and closure of fishery:
 - a. Fishery opening – possession limits:
 - (1) Biomass Floor: On an annual basis in the spring, the DEM shall conduct regular estimates of the standing stock of menhaden utilizing approved scientific monitoring methods. On the basis of those estimates, DEM shall open the commercial fishery at an initial possession limit of one hundred twenty thousand (120,000) pounds per vessel per calendar day when the estimated weekly standing stock reaches two million (2,000,000) pounds.
 - b. Fishery closure:
 - (1) Biomass Ceiling: When fifty percent (50%) of the estimated standing stock of menhaden, above the minimum threshold amount of one million five hundred thousand (1,500,000) pounds, is harvested, the DEM shall close the menhaden fishery until further notice.
 - (2) If at any time the stock estimate drops below one million five hundred thousand (1,500,000) pounds, the DEM shall close the commercial fishery and the incidental catch fishery will be in effect until further notice.
 - c. Fall opening in the Menhaden Management Area:
 - (1) Beginning September 1, the area south of a line extending from the Jamestown and Newport Bridges, and the area south of a line extending from Fogland Point to Sandy Point in the Sakonnet River, to the southern extent of the Management Area, will be open to the harvest of menhaden by purse seine provided that the State's quota has not been exhausted or if the Episodic Event Set Aside Program has been enacted in Rhode Island.
 - (2) Possession limit: Twenty-five thousand (25,000) pounds per vessel per day
2. Commercial Vessel restrictions:
 - a. This section does not apply to small scale fisheries as defined in § 3.22.2(D)(1)(b) of this Part, or floating fish traps.

- b. The use of purse seines shall be permitted only in accordance with the following terms and conditions:
 - (1) All nets shall be less than one hundred (100) fathoms (six hundred feet (600')) in length and less than fifteen (15) fathoms (ninety feet (90')) in depth.
 - (2) All nets shall be marked with fluorescent-colored float buoys, distinguishable from the other float buoys on the net, at intervals of fifty feet (50').
 - (3) Annually, prior to use, all nets shall be inspected and certified as being in conformance with the provisions of this section by the DEM Division of Law Enforcement (DLE). Once inspected and certified, a net may be used throughout the duration of the calendar year in which it was inspected, provided that it is not altered with regard to any of the provisions of this section. Any net that is altered with regard to any of the provisions of this section must be re-inspected and recertified prior to use.

- c. The possession or taking of menhaden by a fishing vessel engaged in the commercial menhaden fishery is prohibited in the following areas:
 - (1) Providence River: Described as the waters north of a line extending from Rocky Point to Conimicut Light in the city of Warwick, and further extending to Nayatt Point in the town of Barrington.
 - (2) Greenwich Bay: Described as the waters of Greenwich Bay west and north of a line extending from the flagpole on Warwick Point to Sandy Point in the city of Warwick.

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

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

or less, or for vessels with a fish storage capacity greater than one hundred twenty thousand (120,000) pounds the excess capacity is rendered unusable in accordance with the specifications set forth in the assessment.

B. Possession of Menhaden in Rhode Island under State Quota Program:

1. Possession limit: One hundred twenty thousand (120,000) pounds per vessel per day
2. Once the quota has been reached, the fishery will close for directed fisheries, including but not limited to purse seine operations, and the incidental catch fishery will be in effect.
3. All commercial menhaden operations conducted in the Management Area, prior to and after the State's quota has been reached, are subject to the provisions of § 3.22.2(A) of this Part.
4. The transiting provision in § 1.6(C)(1)(b) of this Subchapter does not apply to the commercial menhaden fishery. Any vessel transiting State waters must abide by the current State possession limit.

C. Episodic Event Set Aside Program:

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

D. Incidental Catch Fishery:

1. Upon closure of the commercial menhaden fishery, an incidental catch fishery will be in effect as follows:
 - a. Possession limit:
 - (1) Six thousand (6,000) pounds per vessel per day for non-directed and small-scale gears

- (2) Twelve thousand (12,000) pounds per vessel per day for two (2) commercially licensed individuals harvesting from the same vessel, fishing stationary multi-species gear

b. Gear Types:

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

E. Commercial Vessel Reporting Requirements:

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

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

G. No person may transfer or attempt to transfer at sea, from one (1) vessel to another, any finfish identified in these Regulations.

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

3.23 Monkfish

3.23.1 Recreational

A. Minimum size: Seventeen inches (17") total length or eleven inches (11") tail length

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

3.23.2 Commercial

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

3.24 Pollock

3.24.1 Recreational

- A. Minimum size: Nineteen inches (19")

- B. Fishing year: May 1 through April 30
- C. Possession limit: Unlimited

3.24.2 Commercial

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

3.25 River Herring

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

3.26 Skate

3.26.1 Recreational

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

3.26.2 Commercial

- A. Fishing year: May 1 through April 30
- B. State-waters skate wing fishery: Shall be defined as skate harvested, possessed, or landed by a vessel:
 - 1. Fishing in State waters, not on a previously declared DAS, and without an active Federal open-access skate permit; and
 - 2. For food for human consumption with a designated Atlantic Coastal Cooperative Statistics Program (ACCSP) Disposition Code 001 = Food.
 - 3. Minimum size: No minimum size
 - 4. Possession limit: Thirty-five thousand (35,000) pounds per vessel per week for wings only; or seventy-nine thousand four hundred fifty (79,450) pounds per vessel per week for whole skate

- a. Barndoor skate shall not comprise more than twenty-five percent (25%) of total skate wing by weight per vessel per day at the time of landing.
 - b. Barndoor skate shall be kept separate from other species harvested.
 - c. When in possession of barndoor skate, vessels are prohibited from discarding any skate species that has been winged.
- C. Skate bait fishery: Shall be defined as skate harvested, possessed, or landed by a vessel:
1. Fishing in State waters, not on a previously declared DAS, without an active Federal open-access skate permit, and without a Federal skate bait Letter of Authorization (LOA); and
 2. For use as bait with a designated ACCSP Disposition Code 008 = Bait.
 3. Maximum length: Whole skates must measure less than twenty-three inches (23") total length.
 4. Seasons and possession limits:
 - a. May 1 through July 31: Twenty-five thousand (25,000) pounds whole skate per vessel per day. When NOAA Fisheries determines that ninety percent (90%) of a bait skate TAL for sub-period I is landed, the possession limit will be reduced to an incidental catch limit of eight thousand (8,000) pounds whole skate.
 - b. August 1 through October 31: Twenty-five thousand (25,000) pounds whole skate per vessel per day. When NOAA Fisheries determines that ninety percent (90%) of a bait skate TAL for sub-period II is landed, the possession limit will be reduced to an incidental catch limit of eight thousand (8,000) pounds whole skate.
 - c. November 1 through April 30: Twenty-five thousand (25,000) pounds whole skate per vessel per day. When NOAA Fisheries determines that eighty percent (80%) of a bait skate TAL for sub-period III is landed, the possession limit will be reduced to an incidental catch limit of eight thousand (8,000) pounds whole skate.
 - d. Possession limit adjustments: Following the implementation of the incidental catch limit, additional adjustments may be enacted, in accordance with actions by NOAA Fisheries.
 - (1) To ensure the skate bait fishery does not exceed its seasonal or annual TAL, the fishery will close when NOAA

determines that one hundred percent (100%) of the skate bait TAL for a season is to be harvested.

- (2) To achieve the seasonal or annual TAL, incidental possession limits may be lifted, reinstating the standard seasonal possession limit.

3.26.3 Prohibited Species

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

3.27 Spiny Dogfish

3.27.1 Commercial

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

3.28 Yellowtail Flounder

3.28.1 Recreational

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

3.28.2 Commercial

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

3.29 Weakfish

3.29.1 Recreational

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

3.29.2 Commercial

- A. Minimum size: Sixteen inches (16")
- B. Seasons and possession limits:
 - 1. June 1 through June 30: One hundred (100) pounds per vessel per calendar day
 - 2. August 7 through November 8: One hundred (100) pounds per vessel per calendar day
 - 3. At all other times, the possession limit is one hundred (100) pounds per vessel per calendar day as incidental catch only with an equivalent poundage of other species required to be on board the vessel. Provided,

however, that the commercial hook and line fishery is not permitted an incidental catch allowance.

- C. For directed trawl operations, cod end mesh size must be greater than or equal to four and one half inches (4-1/2") diamond or four inches (4") square.

3.30 Winter Flounder

3.30.1 Recreational

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

3.30.2 Commercial

- A. Minimum Size: Twelve inches (12")
- B. Season: January 1 through December 31
- C. Possession limit: Fifty (50) pounds per vessel per day
- D. Closed Areas: The harvest or possession of winter flounder is prohibited in Narragansett Bay north of the Colregs line; Potter Pond; Point Judith Pond and the Harbor of Refuge.
- E. Minimum mesh size:
 - 1. Bottom trawl nets: Six inches (6") diamond mesh or six and one half inches (6-1/2") square mesh applied throughout the body and extension of the net, or any combination thereof, and six and one half inches (6-1/2") diamond mesh or six and one half inches (6-1/2") square mesh applied to the cod end of the bottom trawl nets
 - 2. Gill nets: Six and one half inches (6-1/2") diamond mesh or six and one half inches (6-1/2") square mesh applied throughout the net. Vessels may utilize commercial fishing gear with mesh smaller than the sizes referenced in this section provided they do not possess any winter flounder.

- a. For vessels greater than forty-five feet (45') in length overall, a diamond mesh cod end is defined as the first fifty (50) meshes counting from the terminus of the net, and a square mesh cod end is defined as the first one hundred (100) bars counting from the terminus of the net.
 - b. For vessels forty-five feet (45') or less in length overall, a diamond mesh cod end is defined as the first twenty-five (25) meshes counting from the terminus of the net, and a square mesh cod end is defined as the first fifty (50) bars counting from the terminus of the net.
3. Vessels possessing trawl devices while harvesting winter flounder in excess of the possession limits specified herein may have nets onboard the vessel that have a mesh size less than the minimum size specified in the Regulations provided that the net is stowed and not available for immediate use.
- F. With the exception of the use of gillnets and fyke nets, the taking of winter flounder is prohibited from one (1) hour after sunset until one (1) hour before sunrise in the following areas:
1. In 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)
 2. In all coastal salt pond channels
 3. In the Narrow River
 4. In Little Narragansett Bay and the Pawcatuck River north and east of a line extending from Napatree Point to the western end of Sandy Point
 5. Gillnets and fyke nets may not be hauled in these areas from one (1) hour after sunset to one (1) hour before sunrise.

3.31 Witch Flounder

3.31.1 Recreational

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

3.31.2 Commercial

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

3.32 Ocean Pout

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

3.33 Atlantic Wolffish

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

Proposed amendments

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

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TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 90 – MARINE FISHERIES

SUBCHAPTER 00 – N/A

PART 5 – Lobsters, Crabs and Other Crustaceans

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5.1 Purpose

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

5.2 Authority

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

5.3 Application

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

5.4 Definitions

See Rhode Island Marine Fisheries Regulations, Part [1](#) of this Subchapter.

5.5 Severability

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

5.6 Superseded Rules and Regulations

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

5.7 General **Lobster and Crab** Pot Provisions

- A. No person except the Director shall place, set, keep, maintain, sell, transfer, or have in his or her possession any pot, trap, car, or any other device used in taking or holding lobster or crabs, nor take, remove, or carry away from the beach or shore any pot, trap, car, or other device or line (warp) or buoy without the written permission of the owner (R.I. Gen. Laws § 20-7-12.1).
- B. Raising lobster pots at night: No person shall raise or unduly disturb any lobster pot or trap within the territorial waters of this State between the hours of one (1) hour after sundown and one (1) hour before sunrise. (R.I. Gen. Laws § 20-7-13).

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

5.8 Lobster

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

- A. Minimum size: Three and three-eighths inches (3-3/8") (85.73 mm) carapace length.
- B. Maximum size: Five and one-quarter inches (5-1/4") (133.35 mm) carapace length.
- C. Egg-bearing female lobsters: No person shall have in his or her possession at any time any female lobster bearing eggs or from which the eggs have been brushed or removed (R.I. Gen. Laws § 20-7-10).
- D. Mandatory v-notching: Any person or vessel permitted or declared to fish in LCMA 2 shall v-notch all legal-sized egg bearing female lobsters.
- E. Prohibition on possession of v-notched female American lobsters: Any v-notched lobster shall be immediately returned to the water from which taken. No person shall retain on board, land, or possess any v-notched female American lobster.

- F. Penetrating devices: No person shall use a spear, gig, gaff, or other such penetrating device to harvest lobsters.
- G. Possession of lobster meat: No fishing vessel operating in Rhode Island territorial waters shall have on board at any time more than one (1) pound of cooked or uncooked lobster meat for each person on board that vessel (R.I. Gen. Laws § 20-7-14).
- H. Mutilation of uncooked lobster meat: No person shall mutilate any uncooked lobster by severing its tail from its body or have in his or her possession any part or parts of any uncooked lobster so mutilated (R.I. Gen. Laws § 20-7-14).
- I. Lobster pots:
 - 1. Maximum size: twenty-two thousand nine hundred fifty (22,950) cubic inches.
 - 2. Escape vents: Each and every lobster pot, set, kept, or maintained or caused to be set, kept, or maintained in any of the waters in the jurisdiction of this State by any person properly licensed, shall contain an escape vent in accordance with the following specifications: (R.I. Gen. Laws § 20-7-11(a)).
 - a. At least one (1) rectangular escape vent with an un-obstructed opening measuring not less than two inches by five and three-quarters inches (2" x 5³/₄") (50.8mm X 146mm); or two (2) circular escape vents, each with an un-obstructed opening measuring not less than two and five eighths inches (2-5/8") (66.68mm) in diameter; or,
 - b. An unobstructed gap caused by raising both ends of a bottom lath in the parlor section two inches (2") (50.8mm) from the bottom; or,
 - c. An unobstructed gap caused by separating both ends of 2 vertical laths on the end of the parlor section by two inches (2") (50.8mm); or,
 - d. An unobstructed gap created by cutting wires in a wire trap in such a manner as to meet the minimum size and number of vents required in accordance with this section.
 - e. The vent or gap shall be installed or made in each parlor section on the sides or end panel. Traps equipped with multiple parlor sections and having a central entrance funnel(s) separating the parlor sections must adhere to the escape vent requirements specified above in each parlor section. Traps equipped with multiple parlor sections that are linked in series ("in-line") must adhere to the

escape vent requirements specified in the terminal, or end parlor section.

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

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

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

device to harvest lobsters or while diving to set, open or tend lobster pots (R.I. Gen. Laws § 20-7-4).

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

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

- e. By making application for the transfer of duties to an agent or employee, the applicant/licensee accepts responsibility for the actions of the transferee under the authority of said license.
3. Commercial possession limit of lobsters taken by gillnet or otter trawl: Maximum of one hundred (100) lobsters per day (based on a twenty-four (24) hour period), or five hundred (500) lobsters per trip for trips five (5) days or longer.
- L. Lobster trap allocation (LTA):
 1. No person may take or possess lobster commercially in LCMA 2 unless taken by a lobster trap authorized pursuant to a lobster trap allocation (LTA) issued by the Department, or as incidental catch by an otter trawl or gillnet.
 2. No person may deploy more lobster traps than the number allocated per their LTA.
 3. The Director is the LTA authority in LCMA 2 for all Rhode Island residents, both state-licensed and federally permitted.
 4. No holder of any LTA may lease his/her allocation, or any portion thereof.

~~5. Issuance of initial LCMA 2 LTA:~~

- ~~a. The Department shall determine LCMA 2 LTAs for all eligible applicants.~~
- ~~b. For resident applicants who are dual state-license/federal permit holders, the Department shall forward all proposed LCMA 2 LTAs, and the basis for each such determination, to NOAA Fisheries for that agency's consideration, prior to final issuance.~~
- ~~c. The Department and NOAA Fisheries shall seek to ensure that dual state-license/federal permit holders do not receive duplicate LCMA 2 LTAs from different jurisdictions for the same fishery performance.~~
- ~~d. If there is a discrepancy between Department and NOAA Fisheries proposed LCMA 2 LTAs for a dual state-license/federal permit holder, then the license/permit holder is bound by the lesser of the~~

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

- ~~e. Initial LCMA 2 LTAs will only be issued to qualified applicants in accordance with these regulations.~~
- ~~f. Adjustments to initial LCMA 2 LTAs, and issuances of new LCMA 2 LTAs, may occur, by rule, if associated with Department-sanctioned transfers, or if warranted or required by changes in LCMA 2 lobster stock assessments or other ASMFC actions.~~

~~6. Qualifications for initial LCMA 2 LTAs:~~

- ~~a. To be eligible for an initial LCMA 2 LTA, an applicant must meet the following:~~

- ~~(1) Applied to the Department by February 1, 2007.~~
- ~~(2) Held a Department-issued commercial fishing license, authorizing the individual to fish commercially for lobster, or a federal lobster permit endorsed for LCMA 2, at some point during the period 2001-2003; and,~~
- ~~(3) Documented fishing performance during the period 2001-2003 (i.e., must have landed lobsters with traps from LCMA 2 at some point during that period); or if unable to do so due to material incapacitation, must have documented fishing performance during the period 1999-2000 and during the year 2004 (i.e., must have landed lobsters with traps from LCMA 2, with a valid license/permit, at some point during those periods); and,~~
- ~~(4) Renewed his/her license/permit annually since 2003.~~

- ~~b. Alternatively, an applicant is eligible for an initial LCMA 2 LTA if he/she has:~~

- ~~(1) Lawfully acquired a federal lobster permit that comports with the above-specified qualifications; or,~~
- ~~(2) Acquired the vessel and gear of a RI license holder who meets the above-specified qualifications and has been issued a new license with a lobster endorsement.~~

- ~~c. Documented fishing performance shall be based upon a license/permit holder's logbook reports and/or federal VTRs pertaining to the applicable qualifying period. In accordance with these regulations, the Department will consider other information,~~

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

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

~~he/she served for one hundred eighty (180) or more days during the years 2001-2003, either on active duty in the U.S. Army, Navy, Air Force, Marines, or Coast Guard, or as a member of a national guard or reserve component of the same, activated by order of an appropriate state or federal authority.~~

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

~~7. Application for initial LCMA 2 LTA:~~

- ~~a. Application shall be made on forms prescribed by the Director.~~
- ~~b. Separate applications must be submitted for each LCMA 2 LTA being sought.~~
- ~~c. If an applicant seeks consideration material incapacitation, the applicant must submit the appropriate documentation along with his/her application.~~
- ~~d. The Department shall notify each LCMA 2 LTA applicant, in writing, regarding the applicant's initial LCMA 2 LTA, noting the values used in making the determination, or the reason(s) why the application was denied.~~

~~8. Determination of initial LCMA 2 LTAs: For each qualified applicant, the Department shall determine initial LCMA 2 LTAs as follows:~~

- ~~a. "Predicted Traps Fished" values shall be calculated for 2001, 2002, and 2003 from the applicant's total lobster landings in each of those years using the established regression relationship for LCMA 2.~~
- ~~b. "Reported Traps Fished" values, constituting the maximum number of lobster traps reported fished in LCMA 2 for 2001, 2002, and 2003, shall be obtained from the applicant's logbook reports and/or federal Vessel Trip Reports (VTRs).~~
- ~~c. "Effective Traps Fished" values shall be determined by comparing the "Predicted Traps Fished" and "Reported Traps Fished" values for each of the three (3) years, and identifying the lower value for each year.~~
- ~~d. The initial LCMA 2 LTA is determined by selecting the highest value of the three (3) annual "Effective Traps Fished" values.~~

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

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

~~10. Disputes and appeals:~~

~~a. Upon the issuance of a written decision by the Department regarding an initial, corrected, or revoked LCMA 2 LTA, an applicant may appeal the decision by submitting a written request for an adjudicatory hearing with the clerk of the RIDEM Administrative Adjudication Division, One Capitol Hill, Fourth Floor, Providence, RI 02908. Such a request must be submitted within thirty (30) calendar days of receipt of the Department's written decision.~~

~~b. During the time period from which an appeal has been filed, and until a final determination has been rendered by the AAD, the appellant shall be restricted to fishing his/her initial or corrected LCMA 2 LTA, as set forth by the Department.~~

M. LTA transfers:

1. Eligibility:

a. LTA transferors: Any state-licensed, federally-permitted, or dually federally-permitted/state-licensed holder of a Department or NOAA Fisheries-issued LTA is eligible to transfer some or all of his/her LTA, subject to the terms and conditions set forth below.

b. LTA transferees: Any RI resident is eligible to obtain one or more transfers of Department issued LTAs, subject to the terms and conditions set forth below. Any RI resident or non-resident is eligible to obtain one (1) or more transfers of NOAA Fisheries-issued LTAs, subject to the terms and conditions set forth below.

c. All holders of LTAs assigned to a RI state commercial fishing license only (i.e. no federal permit) must annually renew their RI state commercial fishing license, or that portion of their RI state commercial fishing license that authorizes them to commercially harvest lobsters from RI state waters with lobster traps, in order to remain eligible to transfer any portion of their LTA.

2. LTA transfer application:

a. All transfers of LTAs must be authorized by the Director.

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

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

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

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

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

percent (5%) from the preceding year’s LCMA 2 LTA. The annual LTA reductions shall be assessed to both active and banked LCMA 2 LTA’s, with the annual LTA reductions being permanently retired from the LCMA 2 lobster trap fishery for conservation purposes.

LCMA 2 – LTA Reduction Schedule:

Year	% Reduction
Year <u>12016</u>	25%
Year <u>22017</u>	5%
Year <u>32018</u>	5%
Year <u>42019</u>	5%
Year <u>52020</u>	5%
Year <u>62021</u>	5%

R. Commercial lobster trap tags:

1. No person shall set, haul or maintain from, in, or upon the waters under the jurisdiction of the State of Rhode Island any lobster pot for taking of American lobster without the pot having a valid State of Rhode Island lobster trap tag.
2. Application for trap tags shall be made on forms as prescribed by the Director.
3. Tags shall be permanently attached to the trap bridge or central cross member of each trap and be clearly visible for inspection.
4. Tags shall be valid from June 1 through May 31 annually.
5. All lobster trap tags shall be a permanent, single-use design.

6. No person shall transfer lobster trap tags between lobster traps or between individuals or vessels.
7. No person shall file a false claim of trap or trap tag loss.
8. No person shall possess at any one time more lobster trap tags than are authorized.
9. Only lobster trap tags for the current fishing year and the immediate previous or following fishing year shall be allowed to remain attached to each lobster trap.
10. The ten percent (10%) over-allotment of original trap tags for routine losses shall not be deployed (if issued) such that the total number of traps deployed is greater than the authorized allocation.
11. Issuing authority: The Director is the authority for the issuance of lobster trap tags for the state of RI, and shall have complete oversight over the program.
 - a. For state-licensed residents and non-residents who possess a Federal Limited Access Lobster Permit, the Director may request authority to issue trap tags to Federal Limited Access Lobster Permit holders under a signed Memorandum of Agreement (MOA) with NOAA Fisheries. If such an agreement is not established, NOAA Fisheries shall be the issuing authority.
 - b. The State of Rhode Island, under a signed Memorandum of Agreement (MOA) with the NOAA Fisheries, shall recognize lobster trap tags issued by NOAA Fisheries as being valid within waters under the jurisdiction of the state, provided that the Federal Limited Access Lobster Permit holder also possesses a valid RI commercial fishing license to harvest lobster.
12. Trap tag types and issuance:
 - a. Original trap tags: Commercial licensees may order up to their original trap tag allocation, plus a ten percent (10%) over-allotment to allow for replacement due to routine trap losses. When a routine loss of an original trap tag or trap occurs, the ten percent (10%) over-allotment of original trap tags issued shall be used to replace the lost tag or trap.
 - b. Gear rotation trap tags: Commercial licensees may order trap tags to be used for gear rotation and maintenance. The number of gear rotation trap tags issued shall not exceed the licensee's original trap tag allocation. Gear rotation trap tags shall be held by the

Director. The Director shall issue gear rotation trap tags on a one-for-one basis upon receipt of the original tags.

- c. Catastrophic loss trap tags: Commercial licensees may order up to two (2) complete sets of catastrophic loss trap tags, in an amount equal to the number of original tags ordered, to be used in the event of catastrophic loss or to replace original trap tags not received.
- (1) Catastrophic loss trap tags shall be held by the Director.
 - (2) When a catastrophic loss occurs, a complete duplicate set of ordered catastrophic trap tags shall be issued. Original trap tags will become null and void upon issuance of catastrophic loss trap tags.
 - (3) Catastrophic loss trap tags shall be distinguishable from original trap tags (i.e. color).
 - (4) Application for catastrophic loss trap tags shall be made on forms prescribed by the Director and signed by the commercial licensee under penalty of perjury. The Department shall review the application for catastrophic loss tags form within one (1) week after receipt.
 - (5) In state waters, catastrophic loss trap tags must be placed in traps within ten (10) days after issuance.
 - (6) The Department shall report the issuance of catastrophic loss trap tags and the voiding of original trap tags to the DLE.
 - (7) The DLE must be notified, in writing by certified mail, in cases of extenuating circumstances that do not permit catastrophic loss trap tags to be attached to traps.
 - (8) Catastrophic trap tag loss shall be reported immediately to the DLE. Recovery of original lobster trap tags that have been reported as catastrophic loss shall be reported immediately to the DLE.
 - (9) In the event that catastrophic loss trap tags are not immediately available, the Director may authorize the use of new traps until catastrophic loss trap tags are received by said licensee.
 - (10) Following the issuance of catastrophic trap tags, no person shall deploy a lobster trap for which a catastrophic loss trap

tag has been issued and which does not display a valid catastrophic loss trap tag.

13. For persons possessing a valid RI commercial fishing license (licensee) for the catching, taking, or landing of American lobster, and who also own or are incorporated/partnered in a vessel(s) holding a Federal Limited Access Lobster Permit (Federal Lobster Permit), the following shall apply:
 - a. No harvesting of lobster may occur in any LCMA by means of any lobster trap for which a trap tag has not been issued. All vessels owned/incorporated/partnered by said licensee which hold a Federal Lobster Permit shall annually declare all LCMA(s) in which the licensee intends to fish during the fishery year. Said declaration shall be made at the time of application for the issuance of lobster trap tags on forms prescribed by the Director.
 - b. Once declared, an LCMA may not be changed until the next fishery year. An LCMA declared to the Director shall be identical to the LCMA declared to the NOAA Fisheries or vessels holding a Federal Lobster Permit on forms provided by NOAA Fisheries concerning the fishing activities during the subject period by the vessel owned/incorporated/partnered by said licensee.
 - c. If any discrepancies between the LCMA declared to the Director and NOAA Fisheries are revealed, the NOAA Fisheries LCMA declarations shall govern. Any lobster trap tags issued based on conflicting information provided to NMFS shall become null and void and must be returned to the issuing authority.
 - d. Federal (EEZ) waters lobster trap tags shall be distinguishable from RI State waters lobster trap tags by color.
 - e. No licensees owning/partnered/incorporated in vessel(s) holding a LCMA 2 Federal Lobster Permit shall be permitted to deploy, place, set, tend, haul, lift, raise, supervise, or maintain lobster traps from said LCMA 2 federally-permitted vessel(s), or to catch/take American lobster within the jurisdiction of the State of RI from said LCMA 2 federally-permitted vessel(s), unless the lobster traps are tagged with federally-designated lobster trap tags that includes a LCMA 2 declaration, issued to said federally-permitted vessel(s).
 - f. If multiple LCMA's are declared, pursuant to part (1) above, and management measures for the declared LCMA's differ, any vessel owner permitted to fish in the federal exclusive economic zone (EEZ) must comply with the most restrictive management measures of the LCMA's declared, except in regard to trap caps and trap allocations. For trap caps and trap allocations, the most

restrictive rule will be applied on an LCMA trap cap/trap allocation basis without regard to the individual's or vessel's trap cap or trap allocation.

S. Land-based lobster processing permit:

1. A land-based lobster processing permit is required for the land-based processing of whole uncooked lobsters.
2. The possession of lobster tails, claws, or other lobster body parts at sea or in any unlicensed facility is prohibited.
3. Lobster body parts which are possessed by the land-based processor shall come from legal-sized lobsters only. For the purposes of this section, a legal-sized lobster meets the minimum size and has a dorsal midline length of the sixth abdominal (tail) segment of at least one and one sixteenth inches (1-1/16");
4. Application: Application for a Land-Based Lobster Processing Permit shall be made on forms prescribed by the Director.
5. The applicant must possess a State of Rhode Island Department of Health Food Processor's License and a Rhode Island Lobster Dealer's License.
6. Containers in which processed lobster body parts are packed and which are to be sold, shipped, or transported shall be clearly labeled with the license number of the processor.
7. The applicant shall maintain records at the processing facility of lobster purchases, including the license numbers of the sellers for a period of two (2) years.

5.8.2 LCMA 1 (Inshore Gulf of Maine):

- A. Minimum size: Three and one-quarter inches (3-1/4") (82.55 mm) carapace length.
- B. Maximum size: Five inches (5") (127.0 mm) carapace length.
- C. Minimum escape vent size: In each parlor section of the lobster trap, at least one (1) rectangular escape vent with an un-obstructed opening measuring not less than two inches by five and three-quarters inches (2" x 5³/₄") (50.8mm X 146mm), or two (2) circular escape vents, each measuring not less than two and one half inches (2¹/₂") (63.5mm) diameter.

- D. Maximum trap size: twenty-two thousand nine hundred and fifty (22,950) cubic inches.
- E. Prohibition on possession of v-notched female American lobsters - zero tolerance v-notching definition: No person, including, but not limited to fishermen, dealers, shippers, and restaurants, shall retain on board, land, or possess any v-notched female American lobster. In LCMA 1, a v-notched female lobster means any female lobster bearing a v-shaped notch of any size in the flipper next to and to the right of the center flipper, as viewed from the rear of the female lobster. V-notched female lobster also means any female lobster which is mutilated in such a manner as to hide, obscure, or obliterate such a mark. The flipper to the right of the center flipper will be examined when the underside of the lobster is down and its tail is toward the person making the determination.
- F. Mandatory v-notching: Any person or vessel permitted or declared to fish in LCMA 1 shall v-notch all legal-size egg-bearing female lobsters and return them to the water immediately.
- G. Limits on landings by fishermen using gear or methods other than traps: Landings by fishermen using gear or methods other than traps (non-trap fishermen) will be limited to no more than one hundred (100) lobsters per day (based on a twenty-four (24) hour period) up to a maximum of five hundred (500) lobsters per trip, for trips five (5) days or longer.

5.8.3 LCMA 3 (Offshore Waters):

- A. Minimum size: Three and seventeen thirty seconds inches (3-17/32") (89.69 mm) carapace length.
- B. Maximum size: Six and three quarters inches (6 ¾") (171.45 mm) carapace length.
- C. Minimum escape vent size: In each parlor section of the lobster trap, at least one (1) rectangular escape vent with an un-obstructed opening measuring not less than two and one sixteenth inches by five and three quarter inches (2-1/16" x 5¾") (53.39mm X 146.05mm) or two (2) circular vents, each with an un-obstructed opening measuring not less than two and eleven sixteenths inches (2-11/16") (68.26mm) diameter.
- D. Maximum trap size: thirty thousand one hundred (30,100) cubic inches.
- E. Prohibition on possession of v-notched female American lobsters: No person, including, but not limited to fishermen, dealers, shippers, and restaurants, shall retain on board, land, or possess any v-notched female American lobster.
- F. Mandatory v-notching: There is no v-notching requirement in LCMA 3.

- G. Limits on Landings by fishermen using gear or methods other than traps: Landings by fishermen using gear or methods other than traps (non-trap fishermen) will be limited to no more than one hundred (100) lobsters per day (based on a twenty-four (24) hour period) up to a maximum of five hundred (500) lobsters per trip, for trips five (5) days or longer.
- H. Limits on the Number of Traps:
1. Qualification Criteria: The trap limit in LCMA 3 shall be based on the historical level of traps fished by a vessel in LCMA 3. To qualify for LCMA 3 participation, vessels must meet all of the following criteria:
 - a. A vessel must be able to demonstrate a history of two (2) consecutive calendar-months of active lobster trap fishing in LCMA 3 in any year between March 25, 1991 and November 1, 1997.
 - b. A vessel must hold a current federal lobster permit endorsed for traps.
 - c. Applicants for an LCMA 3 trap allocation are required to produce sales receipts or records showing the landing of at least twenty-five thousand (25,000) pounds of lobster from throughout the range of the resource during the year used as the qualifying year and between March 25, 1991 and November 1, 1997.
 2. Basis for Initial Trap Limit Number: Initial trap allocations to qualifying vessels (Federal Limited Access Lobster Permit holders that meet the performance criteria listed above) shall be based on the applicant's choice of year and trap level, in the water in LCMA 3, during the period from January 1, 1994 through November 1, 1997. Vessels that did not lobster trap fish in LCMA 3 during the period from January 1, 1994 through November 1, 1997, but did qualify as a Federal Limited Access Lobster Permit holder, must pick the most recent year in which they actively fished lobster traps in LCMA 3, such year not to pre-date the March 25, 1991 control date.
 3. Maximum Initial Trap Allocation is three thousand two hundred and fifty (3,250) Traps: No vessel shall be given an Initial trap allocation of more than three thousand two hundred and fifty (3,250) traps, regardless of previous historical participation.
 4. Vessels Applying for both LCMA 3 and Additional LCMA Trap Allocations: Vessels applying for multiple LCMA trap allocations must use the same period to determine their total trap numbers to avoid allocating more total traps to an individual/vessel than that individual/vessel had in the water at any one time. Applicants for LCMA 3 trap allocations, who are also applicants for trap allocations in other LCMA's, must meet the same qualifying criteria as defined above.

5. Certification of Initial trap Allocation Applications: Within sixty (60) days of the close of the trap application period, the Regional Administrator should publish a notice that specifies preliminary initial lobster trap allocations for each Federal Limited Access Lobster Permit holder. The amounts will be based on lobster trap information submitted by the applicant in accordance with the evaluation process, and other information considered appropriate by the Regional Administrator. The notice will provide for a thirty (30) day public comment period. Simultaneous with the publication, the same information contained in the notice (including the thirty (30) day comment period) will appear in a Notice to Permit Holders.

I. Trap Reduction Schedule for LCMA 3: Each LCMA 3 trap allocation of greater than one thousand two hundred (1,200) lobster traps will be reduced on a sliding scale basis over a four (4) year period. Trap reduction will not go below a baseline level of 1,200 lobster traps. LCMA 3 trap allocations of less than one thousand two hundred (1,200) lobster traps will remain at their initial qualifying level and will not be permitted to increase up from that number. The LCMA 3 trap reduction schedule is as follows:

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

J. There shall be no area closure between LCMA 1 and LCMA 3.

K. Reporting requirements for LCMA 3: For any person or vessel permitted and declared to fish in LCMA 3, it shall be required to fill out multi-species logbooks until a lobster-specific logbook is approved.

L. LCMA 3 “Choose and Use” provision: Once qualified for historic participation in LCMA 3, a federal lobster permit holder requesting an LCMA 3 designation (LCMA declaration) is required to permanently designate LCMA 3 on his/her/vessel federal permit. Federal permit holders have a one-time opportunity to drop the LCMA 3 designation. In addition, when an LCMA 3 federal permit is sold or transferred, permanent designation can be reconsidered, which allows the new owner the decision of whether or not they wish to designate/declare LCMA 3 on his/her/vessel federal permit.

M. LCMA 3 LTA transfers:

1. Transfers of LTA assigned to LCMA 3 may only be made to individuals/entities with a federal lobster permit.
2. Partial transfers of LTA assigned to LCMA 3, whether federally permitted or dually federally-permitted/state-licensed, shall involve a minimum of ten (10) LTA units (i.e. lobster traps), and occur in minimum units of ten (10) LTA units thereafter, until the remaining LTA is less than ten (10) lobster traps.
3. If LTA assigned to LCMA 3 falls below ten (10) lobster traps, and the holder wishes to transfer the LTA, the entire allocation must be transferred in a single transaction, and the lobster trap allocation transferor shall be prohibited from participation in the LCMA 3 commercial lobster trap fishery until such time as said individual/entity re-acquires LTA assigned to LCMA 3.
4. All transfers of LCMA 3 LTAs, including all partial and full trap allocation transfers and all transfers associated with the sale of a business, shall be subject to a ten percent (10%) conservation tax. The tax shall be applied to each and every LTA transfer, including all initial transfers and any/all subsequent transfers. Transfers of less than ten lobster traps shall be prohibited.
5. The maximum allowable LTA assigned to LCMA 3 shall be two thousand (2,000) traps. An LCMA 3 LTA transferee may engage in any number of transfers, provided that the total number of traps held at any one time does not exceed two thousand (2,000).

6. Active Trap Cap for LCMA 3:

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

This schedule assumes that NOAA Fisheries will implement a two thousand (2,000) trap cap with the next set of federal rules and phase in a twenty-five percent (25%) trap cut during the next five (5) years.

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

8. Individual Permit Cap Table for LCMA 3:

Year	Number of Traps
Year 0	2,333
Year 1	2,216
Year 2	2,105
Year 3	2,000
Year 4	1,900
Year 5	1,800

This schedule assumes that NOAA Fisheries will implement a two thousand (2,000) trap cap with the next set of federal rules and phase in a twenty-five percent (25%) trap cut during the next five (5) years.

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

Year	Active Trap Cap	Individual Permit Cap	Aggregate Permit Cap (5x Individual Permit Cap)
Year 0	2,000	2,333	11,665
Year 1	1,900	2,216	11,080
Year 2	1,805	2,105	10,525
Year 3	1,715	2,000	10,000
Year 4	1,629	1,900	9,500
Year 5	1,548	1,800	9,000

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

LCMA 3 – LTA Reduction Schedule:

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

5.8.4 LCMA 4 (Inshore Northern Mid-Atlantic):

- A. Minimum size: Three and three eighths inches (3-3/8") (85.72 mm) carapace length.
- B. Maximum size: Five and one-quarter inches (5 1/4") (133.35 mm) carapace length.
- C. Minimum escape vent size: In each parlor section of the lobster trap, at least one (1) rectangular escape vent with an un-obstructed opening measuring not less than two inches by five and three-quarters inches (2" x 5 3/4") (50.8mm x 146.05mm), or two (2) circular escape vents, each with an un-obstructed opening measuring not less than two and five eighths inches (2 5/8") (66.68 mm) diameter.
- D. Maximum trap size: twenty-two thousand nine hundred and fifty (22,950) cubic inches.
- E. Prohibition on possession of v-notched female American lobsters: No person, including, but not limited to fishermen, dealers, shippers, and restaurants, shall retain on board, land, or possess any v-notched female American lobster.
- F. Mandatory v-notching: Any person or vessel permitted or declared to fish in LCMA 4 shall v-notch all legal-sized egg bearing female lobsters and return them to the water immediately.
- G. Limits on landings by fishermen using gear or methods other than traps: Landings by fishermen using gear or methods other than traps (non-trap fishermen) will be limited to no more than one hundred (100) lobsters per day (based on a twenty-four (24) hour period) up to a maximum of five hundred (500) lobsters per trip, for trips five (5) days or longer.
- H. Limits on the Number of Traps:
 - 1. Qualification Criteria: The trap limit in LCMA 4 shall be based on the historical level of traps fished by an individual. To qualify for LCMA 4 participation, individuals must prove participation in the LCMA 4 lobster fishery between March 25, 1991 and September 15, 1998.
 - 2. Basis for Initial Trap Limit Number: Initial trap allocations to qualifying individuals shall be based on the number of traps fished in any one (1) calendar year during the period from January 1, 1994 through September 15, 1998. Individuals that did not lobster trap fish in LCMA 4 during the period from January 1, 1994 through September 15, 1998, but did fish between 1991 and 1993, inclusive, must pick the most recent year in which they actively fished lobster traps in LCMA 4, such year not to pre-date the March 25, 1991 control date. Individuals shall be allocated the total number of traps fished.

I. Area closures: It shall be unlawful to harvest lobsters using trap gear in four closed areas: (1) Fire Island; (2) Moriches; (3) Shinnecock and; (4) Montauk. Fishermen may fish traps for finfish in these areas, but may not possess lobsters while fishing in these designated areas. These areas were designated using Loran coordinates. The following GPS coordinates are rough conversions of the Loran line coordinates. The closed area boundaries are:

1. Fire Island:

Point	Latitude (°N)	Longitude (°W)	Loran
A (NW)	40° 31.344	73° 25.823	26730 / 43710
B (NE)	40° 33.233	73° 09.249	26600 / 43710
C (SE)	40° 23.377	73° 11.708	26600 / 43620
D (SW)	40° 23.464	73° 10.976	26730 / 43620

2. Moriches:

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

3. Shinnecock:

Point	Latitude(°N)	Longitude(°W)	Loran
A (NW)	40° 34.389	72° 27.420	14960 / 43670
B (NE)	40° 35.904	72° 16.223	14890 / 43670

C (SE)	40° 27.997	72° 13.117	LCMA 3 boundary; 14890 line
D (SW)	40° 23.105	72° 23.782	LCMA 3 boundary; 14960 line

4. Montauk:

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

- J. Season closure: A season closure to the landing of lobsters from April 30 through May 31 annually is required for any person or vessel permitted and declared to fish in LCMA 4. During this closure, lobster potters will have a two (2) week period to remove lobster pots from the water and may set lobster pots one (1) week prior to the end of the closed season.

5.8.5 LCMA 5 (Inshore Southern Mid-Atlantic):

- A. Minimum size: Three and three eighths inches (3-3/8") (85.72mm) carapace length.
- B. Maximum size: Five and one quarter inches (5¼") (133.35 mm) carapace length.
- C. Minimum escape vent size: In each parlor section of the lobster trap, at least one (1) rectangular escape vent with an un-obstructed opening measuring not less than two inches by five and three-quarters inches (2" x 5¾") (50.8mm x 146.05mm), or two (2) circular escape vents, each with an un-obstructed opening measuring not less than two and one half inches (2½") (63.5mm) diameter.

- D. Maximum trap size: twenty-two thousand nine hundred fifty (22,950) cubic inches.
- E. Prohibition on possession of v-notched female American lobsters: No person, including, but not limited to fishermen, dealers, shippers, and restaurants, shall retain on board, land, or possess any v-notched female American lobster.
- F. Mandatory v-notching: Any person or vessel permitted or declared to fish in LCMA 5 shall v-notch all legal-sized egg bearing female lobsters and return them to the water immediately.
- G. Limits on Landings by fishermen using gear or methods other than traps: Landings by fishermen using gear or methods other than traps (non-trap fishermen) will be limited to no more than one hundred (100) lobsters per day (based on a twenty-four (24) hour period) up to a maximum of five hundred (500) lobsters per trip, for trips five (5) days or longer.
- H. Limits on the Number of Traps:
 - 1. Qualification Criteria: The trap limit in LCMA 5 shall be based on the historical level of traps fished by an individual. To qualify for LCMA 5 participation, individuals must prove participation in the LCMA 5 lobster fishery between March 25, 1991 and September 15, 1998.
 - 2. Basis for Initial Trap Limit Number: Initial trap allocations to qualifying individuals shall be based on the number of traps fished in any one (1) calendar year during the period from January 1, 1994 through September 15, 1998. Individuals that did not lobster trap fish in LCMA 5 during the period from January 1, 1994 through September 15, 1998, but did fish between 1991 and 1993, inclusive, must pick the most recent year in which they actively fished lobster traps in LCMA 5, such year not to pre-date the March 25, 1991 control date. Individuals shall be allocated the total number of traps fished.
- I. Season closure: A season closure to the landing of lobsters from February 1 through March 31 annually is required for any person or vessel permitted and declared to fish in LCMA 5. During this closure, lobster potters will have a two (2) week period to remove lobster pots from the water, and may set lobster pots one (1) week prior to the end of the closed season.

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

- A. Minimum size: Three and five sixteenths inches (3-5/16") carapace length.
- B. Maximum size: Five and one quarter inches (5-1/4") (133.35mm) carapace length.

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

5.8.7 Outer Cape Cod LCMA:

- A. Minimum size: Three and one half inches (3 ½") (88.90mm) carapace length.

- B. Maximum size: There is no maximum size for American lobster in the Outer Cape Cod LCMA.
- C. Minimum escape vent size: In each parlor section of the lobster trap, at least one (1) rectangular escape vent with an un-obstructed opening measuring not less than two and one sixteenths inches by five and three-quarters inches (2-1/16" x 5 3/4") or two (2) circular escape vents measuring two and eleven sixteenths inches (2-11/16").
- D. Maximum trap size: twenty-two thousand nine hundred fifty (22,950) cubic inches.
- E. Prohibition on possession of v-notched female American lobsters: It shall be unlawful for any person or vessel permitted or declared to fish in the Outer Cape Cod LCMA to possess a V-notched female lobster. The prohibition on possession of V-notched female lobster applies to all persons, including, but not limited to fishermen, dealers, shippers, and restaurants.
- F. Mandatory v-notching requirements: There is no v-notching requirement in the Outer Cape Cod LCMA.
- G. Limits on landings by fishermen using gear or methods other than traps: Landings by fishermen using gear or methods other than traps (non-trap fishermen) will be limited to no more than one hundred (100) lobsters per day (based on a twenty-four (24) hour period) up to a maximum of five hundred (500) lobsters per trip, for trips five (5) days or longer.
- H. Trap Reduction Schedule for Outer Cape Cod LCMA: Beginning in 2002 and extending through 2008, a twenty percent (20%) reduction in the total number of lobster traps allowed to be fished will occur in the Outer Cape Cod LCMA. An additional five percent (5%) reduction in the total number of lobster traps allowed to be fished per year may be employed in 2006 and 2007, if necessary, to meet lobster egg production goals and objectives.
 - 1. In order to control the expansion of fishing effort, an overall total number of traps allowed to be fished in the Outer Cape Cod LCMA has been established from the sum of individual maximum traps reported by each Outer Cape Cod LCMA lobster fisher on Massachusetts (MA) catch reports in the year 1998. A reduction of this total number of traps by twenty percent (20%) will be implemented and resulting individual trap allotments will be defined accordingly during the stock rebuilding period. The starting trap allotments for each lobster fisher in the year 2002 will be based on MA 2000 catch report statistics. Allotments will be debited thereafter as needed by MA Division of Marine Fisheries (DMF). Participants in the 2001 Outer Cape Cod lobster trap fishery, who received a license through the MA DMF or waiting list provisions during 2001, and as a result, have no prior lobster fishing history (i.e. filed catch reports) in

the Outer Cape Cod LCMA, will receive a trap allotment based on proof of documentation of the number of traps they fished during 2001. These allotments will be apportioned from a percentage of the overall trap cap, not to exceed two percent (2%) of the total. Those who received a transferred license with an Outer Cape Cod LCMA fishing history will receive a starting trap allotment based on that history.

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

5.9 Blue Crab

- A. Harvest by RI residents only: The harvest of blue crabs by non-residents is prohibited (R.I. Gen. Laws § 20-7-15).
- B. Minimum size: Five inches (5") as measured across the shell from tip to tip of spike.
- C. Season: Open all year.
- D. Possession limit: Twenty-five (25) crabs.
 1. The possession limit is unlimited if harvested by a scoop or crab net, trot, or hand line.
- E. No person shall take blue crabs from the waters of the State between the hours of sunset and sunrise (R.I. Gen. Laws § 20-7-15).

- F. No person shall take, offer for sale, or possess at any time any female blue crab bearing eggs visible thereon or from which the egg pouch or bunion shall have been removed (R.I. Gen. Laws § 20-7-16).

5.10 Horseshoe Crab

~~A. Permit required: No person shall harvest horseshoe crabs without a valid Horseshoe Crab Harvest Permit obtained from the Director.~~

~~1. Application for a Horseshoe Crab Harvest Permit shall be made on forms prescribed by the Director.~~

~~2. A Horseshoe Crab Harvest Permit is valid for the calendar year of issuance.~~

~~B. Harvest by RI residents only: The harvest of horseshoe crabs by non-residents is prohibited.~~

~~C. Minimum size: Seven inches (7") prosomal width.~~

~~D. Seasons and possession limits:~~

~~1. Recreational:~~

~~a. Season: Open January 1 through December 31.~~

~~b. Possession limit: Five (5) horseshoe crabs per person per day.~~

~~2. Commercial: A total allowable harvest (quota) of horseshoe crabs will be established annually as allocated to the State of Rhode Island by the ASMFC or as determined by DFW based on the current stock status.~~

~~a. Bait fishery season and possession limit:~~

~~(1) January 1 through April 30 annually: sixty (60) crabs per person per day.~~

~~(2) May 1 through May 31 annually: Closed to harvest.~~

~~(3) June 1 through December 31 annually: sixty (60) crabs per person per day.~~

~~b. Bio-medical fishery season and possession limit:~~

~~(1) Season: Open January 1 through December 31 annually.~~

~~(2) Harvest restriction: No person shall harvest horseshoe crabs for bio-medical purposes during the period forty-eight (48)~~

~~hours preceding and forty-eight (48) hours following the new and full moons during the month of May annually.~~

~~(3) Possession limit: Unlimited.~~

~~E. Reporting:~~

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

A. Harvest by residents only: The harvest of horseshoe crabs by non-residents is prohibited.

B. Minimum size: Seven inches (7") prosomal width.

C. Permit required: No person shall harvest horseshoe crabs without a valid Horseshoe Crab Harvest Permit obtained from the Director. Application for this permit shall be made on forms prescribed by the Director.

1. Eligibility: The permit is available to all licensed persons authorized to harvest horseshoe crab.

2. Permit conditions:

a. The permit is valid only for the calendar year of issuance.

b. Reporting:

(1) Reporting of landings shall be on forms as prescribed by the Director.

(2) Weekly reporting: All permit holders shall provide a report of landings for each calendar week either by telephone or in writing, including reports of no landings. Reports shall be submitted no later than Monday 4:00PM for the previous calendar week's landings.

(3) Monthly reporting: All permit holders shall provide a monthly report in writing including the number of crabs taken, locations of harvest, and use (bait, biomedical purposes, or other reasons). These reports shall not be made public and shall be kept only for statistical purposes.

c. Biomedical harvest:

(1) Horseshoe crabs harvested and transported to a biomedical facility for purposes of extracting bodily fluids shall be returned to the waters from which they were taken within seventy-two (72) hours following the completion of the biomedical procedure, or intended procedure, if no procedure was performed.

(2) The dealer is responsible and liable for returning the crabs and shall make every attempt to assure their survival. Prior to returning the crabs to the water, the dealer shall report to DEM's Division of Law Enforcement by calling 401-222-3070, and include the name of dealer, the number of crabs being returned, and location where the crabs will be returned.

(3) Horseshoe crabs must be transported to and from a biomedical facility in a temperature-controlled vehicle at or below 70°F. Containers of crabs must be secured and at most two-thirds (2/3) full.

3. Penalties for non-compliance: In addition to the penalties for non-compliance as specified in § 1.11 of this Subchapter, penalties for reporting non-compliance are as follows:

a. First instance: A first offense shall result in a warning being issued to the permit holder.

- b. Second instance: A second offense shall result in revocation of the permit for the remainder of the calendar year for which the permit is issued.
- c. Third instance: A third offense shall result in revocation of the permit for the remainder of the calendar year for which the permit is issued, and also result in the prohibition to apply for the permit in the subsequent year.

D. Seasons and possession limits:

1. Recreational:

- a. Season: Open January 1 through December 31.
- b. Possession limit: Five (5) horseshoe crabs per person per day.

2. Commercial bait fishery:

- a. Quota: Established annually as allocated by the ASMFC or as determined by DMF based on the current stock status.
- b. Season and possession limit:
 - (1) January 1 through April 30 annually: sixty (60) crabs per person per day.
 - (2) May 1 through May 31 annually: Closed to harvest.
 - (3) June 1 through December 31 annually: sixty (60) crabs per person per day.

3. Commercial bio-medical fishery:

- a. Quota: Established annually after consultation with permitted biomedical facilities; not to exceed the total allowable harvest as determined by DMF based on the current stock status.
- b. Season: Open January 1 through December 31 annually.
- c. Possession limit: Unlimited.

FE. No person shall harvest horseshoe crabs for commercial or recreational purposes on or within one-hundred feet (100') seaward of Patience and Prudence Islands in Narragansett Bay.

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

authorization by the Department. The only species of Horseshoe Crab which may be possessed within the jurisdictional limits of the State of Rhode Island is the Atlantic Horseshoe Crab.

~~H. Horseshoe crabs harvested and transported to a biomedical facility for purposes of extracting bodily fluids shall be returned to the waters from which they were taken within seventy-two (72) hours following the completion of the biomedical procedure, or intended procedure if no procedure was performed. The dealer is responsible and liable for returning the crabs and shall make every attempt to assure their survival. Prior to returning the crabs to the water, the dealer shall report to DEM's Division of Law Enforcement by calling 401-222-3070, and include the name of dealer, the number of crabs being returned, and location where the crabs will be returned.~~

H.G. A control date of January 6, 2017 is established for the horseshoe crab fishery. This control date has been established by the Department for potential future use in establishing eligibility criteria for future access to the fishery.

5.11 Jonah Crab

A. Recreational:

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

B. Commercial:

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

5. Possession limit:
 - a. Directed Fishery: Unlimited.
 - b. Incidental Catch Provision: One thousand (1,000) crabs per vessel per calendar day provided the poundage of crabs does not exceed the poundage of other species on board the vessel at all times during a fishing trip.

C. Harvest restrictions:

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

5.12 Atlantic Rock Crab

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

Proposed amendments

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

250-RICR-90-00-12

TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 90 – MARINE FISHERIES

SUBCHAPTER 00 – N/A

PART 12 – Research Pilot Aggregate Program

12.1 Purpose

The purpose of the program ~~will be~~ is ~~to assess the effectiveness and viability of an aggregate landings approach as an alternative to traditional daily possession limit quota management in the commercial summer flounder and black sea bass fisheries~~ establish a pilot program to authorize aggregate possession limits for commercial black sea bass and summer flounder as a means to gather data on the effect of aggregate limits in the commercial management of these species.

12.2 Authority

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

12.3 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.

12.4 Definitions

See Rhode Island Marine Fisheries Regulations, [Part 1](#) of this Subchapter.

12.5 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.

12.6 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.

~~12.7 Regulations~~

~~12.7.1 Applicability~~

~~—A group of vessels will be selected through an application process established herein to implement a pilot program to gather data on aggregate limits and their effect on harvest rates and quotas for the commercial summer flounder and black sea bass fisheries.~~

12.7 Permit Required

A permit issued from the Director is required to participate in this program. Permit applications shall be completed on forms as prescribed by the Director. Applications not completed in their entirety shall not be considered.

~~12.7.2 Eligibility~~

12.8 Eligibility

- A. ~~Persons~~Applicants must hold a valid commercial fishing license in Rhode Island and be the owner and/or operator of a vessel that is licensed to harvest and land summer flounder and black sea bass in state waters and must remain so licensed through 2021.
- B. Applicant vessels must have a historical record of landing summer flounder and black sea bass as recorded in SAFIS for a minimum of one (1) year.
- C. Up to six (6) ~~participating~~ vessels from each of the following gear types will be selected for participation as follows: gill net, otter trawl, rod and reel, fish pot, lobster pot, and multi-gear fisher. If the number of eligible applicants by gear type category exceeds the number of permits available, applicants will be selected through a lottery process.
- D. Applicant vessels shall agree to install a Division approved vessel monitoring system (VMS) device on their vessel. The cost of such vessel monitoring device shall be the responsibility of the participant.

- E. Applicant vessels shall agree to submit catch and effort information through a Division approved electronic application. The cost of such application shall be the responsibility of the participant.
- F. Applicant vessels shall agree to allow the Department to publicly disclose all landings of summer flounder and black sea bass on a single-vessel resolution basis.
- G. Applicant vessels shall agree to take any state or federally authorized observers at any time.
- ~~H. Application required. Eligible persons must apply on forms as prescribed by the Director.~~
- H. Application period: Applications must be received between January 1 and March 30 annually.
- I. Applicants must be in compliance with commercial fishing data reporting requirements pursuant to Part 2 of this Subchapter.

12.7.3 Approval Process

- ~~A. Evaluation criteria: All permit applications submitted to the Division will be reviewed and assessed by the Director for completeness and accuracy.~~
- ~~B. If the number of eligible applicants by gear type category exceeds the number of permits available, the applicants will be selected for participation through a lottery process.~~

12.7.4 Permit Conditions

12.9 Permit Conditions

- A. Vessel monitoring system devices and reporting applications shall be maintained in operational order and be actively engaged at all times when fishing. Malfunctioning of any device will result in permit suspension until the device is returned to operational order.
- B. ~~Each p~~Participantss shall submit catch and effort information through the Division approved electronic application with each landing event.
- C. ~~All p~~Participating vessels shall take any state or federally authorized observers at any time.
- D. ~~All license/permit holders~~Participants and participating vessels ~~participating in the pilot program~~ must adhere to all applicable rules and regulations governing commercial fishing operations, including but not limited to mesh size restrictions,

offloading hours, at-sea transfers, and reporting and record-keeping requirements.

- E. ~~All license/permit holders~~ Participants and participating vessels will be subject to all State and Federal small mesh landing levels for summer flounder when fishing with small mesh.
- F. ~~All license/permit holders~~ Participants and participating vessels ~~will be allowed~~ are authorized to fish south of the Southern New England DDAS counting area for summer flounder when properly enrolled in the Small Mesh Exemption Program.
- EG. Permits are non-transferable. Only vessels authorized by the Director may participate in the pilot program.

~~12.7.5 Possession Limits~~

12.10 Possession Limits

- A. The weekly possession limit for summer flounder and black sea bass will be equal to the daily limit for each species multiplied by the number of open days as set forth in [Part 3](#) of this Subchapter.
- B. The weekly periods for the duration of the program will be issued explicitly by the Division to each participant. Alternate weekly periods will not be authorized.
- C. If at any point during any sub-period for either species, the Division may terminate the program to prevent an early closure.

~~12.7.6 Compliance and Enforcement~~

12.11 Penalties for Non-Compliance

- A. Failure to adhere to any of the terms and conditions will result in permit revocation for the remainder of the pilot program duration.
- B. Participating vessels which cease to participate, or are expelled from, the program will be prohibited from harvesting and landing summer flounder and black sea bass in an aggregate amount for the remainder of the pilot program duration.
- C. If a participant exceeds their weekly aggregate limit for either species, or if the participating vessel is found to be in violation of any of the terms and conditions set forth in these regulations, the participant's permit will be revoked and will be subject to potential enforcement action, including but not limited to: confiscation of catch, prohibition on the harvest and landing of summer flounder and black sea bass for the remainder of the year, license and/or permit suspension or revocation, fines, and disqualification from participation in any future alternative

management programs. All penalty provisions applicable to violations of marine fisheries laws and regulations will also be applicable to participants in the pilot program.

~~12.7.7 Term of program~~

12.12 Term of Program

These regulations will remain in effect through 2021 only, after which it will be subject to review and evaluation, with a view to developing recommendations for continuance of program beyond 2021.

Proposed amendments

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

250-RICR-90-00-13

TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 90 – MARINE FISHERIES

SUBCHAPTER 00 – N/A

PART 13 – Cooperative Multi-State Possession and Landing Pilot Program for Summer Flounder

13.1 Purpose

The purpose of these regulations is to authorize a program, entered into cooperatively by the Director and other states, which will increase the efficiency of the commercial summer flounder fishery by allowing certain eligible and qualifying commercial fishers to simultaneously carry possession limits for, and land summer flounder in cooperating states during the same fishing trip.

13.2 Authority

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

13.3 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.

13.4 Definitions

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

13.5 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.

13.6 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.

13.7 Applicability

- A. This program is limited to Rhode Island and cooperating states. “Cooperating states” is defined as states other than Rhode Island that enacted rules authorizing commercial fishermen licensed by that state to participate in this program, and that have reached an agreement with the Director of intent to cooperatively participate in this Program.
- B. Permit holders shall be authorized to possess a multi-state possession limit. A “multi-state possession limit” is defined as the sum of the commercial summer flounder possession limit for Rhode Island waters and the current commercial summer flounder possession limits for cooperating states within which the permit holder is authorized to participate.
- C. This program is limited to the federal Winter Period 1 (January 1 through April 30). This program is subject to annual review and re-authorization by the Director.

13.8 Permit Required

A permit issued from the Director is required to participate in this program. Permit applications shall be completed on forms as prescribed by the Director. Applications not completed in their entirety shall not be considered.

13.89 Eligibility

- A. Applicants must hold a valid commercial fishing license or landing permit issued by the Director authorized to possess and/or land Summer flounder.
- B. Applicant vessels must be commercial declared pursuant to [Part 2](#) of this Subchapter.
- C. Applicants must be licensed or otherwise authorized to possess and/or land summer flounder in at least one cooperating state.
- D. Applicants must not have been assessed a criminal or administrative penalty for violations of state commercial fishing regulations or laws within any cooperating

state, or for violations of federal commercial fishing regulations or laws, within the past three (3) years.

E. Applicants ~~are~~ must be in compliance with commercial fishing data reporting requirements pursuant to [Part 2](#) of this Subchapter.

~~F. Application required. Eligible persons must apply on forms as prescribed by the Director. Applications not completed in their entirety shall not be considered.~~

~~GF.~~ Applicant vessels must be permitted by NOAA Fisheries to possess and/or land summer flounder harvested in federal waters.

13.910 Permit Conditions

A. ~~All license/permit holders~~ Participants and participating vessels must adhere to all applicable rules and regulations governing commercial fishing operations, including but not limited to mesh size restrictions, offloading hours, at-sea transfers, and reporting and record-keeping requirements.

~~B. All license/permit holders~~ Participants and participating vessels will be subject to all State and Federal small mesh landing levels for summer flounder when fishing with small mesh.

~~C. All license/permit holders~~ Participants and participating vessels will be allowed to fish south of the Southern New England declared day at sea (DDAS) counting area for summer flounder when properly enrolled in the Small Mesh Exemption Program.

~~BD. Program p~~ Participants must maintain proof of privilege to land summer flounder in cooperating states as applicable.

~~GE.~~ To be eligible to land in Rhode Island with a multi-state summer flounder possession limit on board, ~~the fisherman~~ participants shall have on board official documentation verifying their authorization to participate in the program of any cooperating state(s) in which the ~~fisherman~~ participant intends to land the remainder of the multi-state possession limit.

~~DE.~~ Permits are valid only for the calendar year issued.

~~EG. Program p~~ Participants may only retain their multi-state possession limit when fishing on a permitted vessel associated with that Program participant's authorization.

~~FH.~~ Summer flounder may be landed between the hours of 6:00 AM to 8:00 PM only, consistent with [Part 3](#) of this Subchapter.

~~GJ.~~ Summer flounder catch intended for landing in Rhode Island and any cooperating state(s) shall be stored such that the catch intended for each state is physically

separated; catch intended for each state must be stored in separate totes and identified with a written sign as to the intended port of landing.

~~HJ.~~ Program participants intending to land summer flounder in Rhode Island must call the Division of Law Enforcement (401-222-3070) at least two (2) hours prior to landing, and provide intended port and facility of landing, estimated time of landing, total weight of summer flounder to be landed in Rhode Island, and intended ports of landing and total weight for any summer flounder to be landed in cooperating states.

~~K. Participants must maintain compliance with commercial fishing data reporting requirements pursuant to Part 2 of this Subchapter.~~

~~L. Permits are non-transferable. Only vessels authorized by the Director may participate in the pilot program.~~

13.10 ~~Compliance and Enforcement~~ Penalties for Non-Compliance

A. ~~In addition to the penalties for non-compliance specified in § 1.11 of this Subchapter, T~~the Director may revoke, in writing, the authorization to participate in this Program, should the Director determine that such ~~Program~~ participant:

~~1. Has violated any permit condition specified in this rule.~~

~~2.~~ 1. Has been assessed a criminal or administrative penalty for violations of state commercial fishing regulations or laws within any cooperating state, or for violations of federal commercial fishing regulations or laws, within the past three (3) years.

~~3. Did not report landings pursuant to Part 2 of this Subchapter.~~

~~4. Exceeded the multi-state possession limit that the Program participant is authorized to possess.~~

~~5. Violated any provision of R.I. Gen. Laws Title 20—Fish and Wildlife, or any Marine Fisheries Regulation of Rhode Island State Agencies promulgated thereunder including but not limited to this section; or~~

~~6.~~ 2. Has had program privileges revoked by a cooperating state.

B. In the event that a ~~Program~~ participant's privileges are revoked, the permitted vessel associated with that ~~program~~ participant's authorization is no longer eligible to participate in this Program upon receipt of privilege revocation.

C. ~~Appeals: Any Program participant whose Program privileges are revoked by the Director may submit an appeal within thirty (30) days of receipt of revocation notice to the Director asking to be heard in accordance with R.I. Gen. Laws Chapter 42-17.7 and pursuant to Part 10-00-1 of this Title, Rules and~~

~~Regulations for the Administrative Adjudication Division concerning reconsideration for eligibility in this Program. Such a~~Appeals made pursuant to section 1.13 of this Sub-chapter shall be limited to taking factual issue regarding one or more allegations provided by the Director for revocation, as provided in §§ 1.10(A)(1) ~~to (5), inclusive,~~ of this Part. Should the Director deem that the revocation of Program privileges was for due cause, the former ~~Program~~ participant may not apply for re-admittance into this Program for a period of five (5) years from the date of revocation.

13.11 Term of program

~~These regulations will remain in effect for 2020 only, after which it will be subject to review and evaluation, with a view to developing recommendations for moving forward in subsequent years.~~

Proposed amendments

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

250-RICR-90-00-14

TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 90 – MARINE FISHERIES

SUBCHAPTER 00 – N/A

PART 14 –Summer Flounder Exemption Certificate Program

14.1 Purpose

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

14.2 Authority

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

14.3 Application

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

14.4 Definitions

See Part [1](#) of this Subchapter.

14.5 Severability

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

14.6 Superseded Rules and Regulations

On the effective date of these Rules and Regulations, all previous Rules and Regulations, and any policies regarding the administration and enforcement of

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

14.7 Applicability

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

14.8 Original Application Requirements

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

14.9 Eligibility

- A. ~~DEM will issue an Exemption Certificate for a vessel if the owner of the vessel or his/her representative~~ Applicants must have applied to DEM prior to January 1, 1997, ~~for the issuance of such a certificate~~ and demonstrated to the ~~satisfaction of the Director that~~ following:
 - 1. The operator of the vessel possesses a valid Rhode Island commercial fishing license to land Summer Flounder up to the amount permitted by these regulations; and
 - 2. The subject vessel meets any of the following criteria:

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

14.10 Other Conditions

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

14.11 Exemption Certificate Renewal

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

14.12 Transfer of an Exemption Certificate

- A. ~~An exemption certificate issued by the DEM is only valid for the vessel to which it is issued. A vessel may be sold with all certificates, permits (state and federal) and history transferred together or without the certificates, permits (state and~~

federal) and history for purposes of replacing the vessel. In instances when a vessel owner retains all certificates, permits, and history they must be applied to a replacement vessel owned by said individual within ninety (90) days. An Exemption Certificate may be transferred upon change in vessel ownership or upon vessel replacement. Application to the Department on forms as prescribed by the Director is required upon transfer.

1. ~~Change in ownership: An exemption certificate is presumed to transfer with the vessel whenever it is bought, sold, or otherwise transferred, unless there is a written agreement, signed by the transferor/seller and transferee/buyer, or other credible written evidence, verifying that the transferor/seller is retaining the vessel's fishing and permit history for purposes of replacing the vessel. Certificate transfer upon change in vessel ownership:~~ Individuals who purchase a vessel issued with an valid Summer Flounder eExemption eCertificate must supply credible written evidence verifying that they are the full owner of said vessel. Vessel ownership will be determined solely by an issued and valid (unexpired) US Coast Guard documentation or state registration.
2. Certificate retained for vessel replacement:
 - a. A written agreement, or other credible written evidence, must be signed by the transferor/seller and transferee/buyer, verifying that the transferor/seller is retaining the vessel's Exemption Certificate for the purpose of replacing the vessel.
 - b. A vessel owner must prove that the applicant vessel is replacing a vessel and that he Exemption Certificate is only applicable to the vessel for which the Exemption Certificate has been transferred.
 - c. If a vessel owner elects to sever the Exemption Certificate from a vessel, the Exemption Certificate shall only be transferred 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 issued and valid US Coast Guard documentation or a state registration.
 - d. The Exemption Certificate must be applied to a replacement vessel owned by the seller/transferor within five (5) years of approval of application.
2. ~~Replacement Vessels: A vessel owner wishing to transfer an exemption certificate must provide proof to the satisfaction of the DEM that the applicant vessel is replacing a vessel and that said certificate is only applicable to the vessel for which the exemption certificate has been transferred.~~

- ~~a. The vessel owner must supply credible written evidence verifying that the transferor/seller is retaining the vessel's Exemption Certificate for purposes of replacing the vessel. If a vessel owner elects to sever the exemption certificate from a vessel, the exemption certificate may be transferred only to another vessel fully owned by said vessel owner. Proof of full ownership of both vessels is required. Vessel ownership will be determined solely by issued and valid (unexpired) US Coast Guard documentation or a state registration.~~
- ~~b. Vessel permits (state and federal), exemption certificates, and fishing history cannot be split.~~
- ea. An eExemption eCertificates may not be combined to create larger replacements vessels.
- eb. The replacement vessel may not exceed a 10 percent increase in LOA, a ten percent (10%) increase in GRT or NT, or a twenty percent (20%) increase in horsepower of the vessel's baseline specifications, as applicable.
- ec. 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.
- fd. A vessel may be upgraded, whether through refitting or replacement, and be eligible to retain an exemption certificate, only if the upgrade complies with the following:
- (1) The vessel's horsepower may be increased only once, whether through refitting or replacement. Such an increase may not exceed twenty percent (20%) of the horsepower of the vessel's baseline specifications, as applicable.
 - (2) The vessel's length, GRT, and NT may be increased only once, whether through refitting or replacement. Any increase in any of these three (3) specifications of vessel size may not exceed ten percent (10%) of the vessel's baseline specifications, as applicable. If any of these three (3) specifications is increased, any increase in the other two (2) must be performed at the same time. This type of upgrade may be done separately from an engine horsepower upgrade.