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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3.6 Superseded Rules and Regulations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Rules and Regulations, and any policies regarding the administration and enforcement of these Regulations shall be superseded.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 License Required

3.7.1 Recreational

A. Applicability: No person shall take finfish or squid recreationally from the marine waters of Rhode Island without a valid recreational saltwater fishing license. Finfish taken recreationally shall not be sold or offered for sale. A person is considered to be engaging in recreational fishing if they are engaged in the process of angling via the use of any type of hook and line, or spearfishing via

the use of any type of spear or powerhead, or if they possess equipment used for angling or spearfishing and are in possession of finfish or squid. A valid recreational saltwater fishing license may include any of the following:

1. A Rhode Island recreational saltwater fishing license issued by the Director.

2. A recreational saltwater fishing license from a reciprocal State. Reciprocal States are listed at saltwater.ri.gov.

3. A national saltwater angler registration.

B. Anglers and spearfishers must be in possession of, or within close proximity to, their license at all times while engaged in angling or spearfishing. The term close proximity shall be construed to mean aboard a vessel, on which or from which an individual is angling or spearfishing; or, for shore-based anglers, or spearfishers, within a nearby car or other location that is within walking distance from the point of exit from the water.

C. Anglers and spearfishers shall present a valid and current recreational saltwater fishing license for inspection upon demand by an authorized law enforcement officer.

D. Failure to meet the terms of § 3.7.1 of this Part shall be deemed a violation, subject to the penalties set forth under R.I. Gen. Laws § 20-2.2-8.

E. Exemptions. A license is not required for the following:

1. Persons under sixteen (16) years of age.

2. Persons on party or charter vessels licensed in accordance with R.I. Gen. Laws § 20-2-27.1.

3. Licensed party or charter vessel operators when fishing in party/charter mode.

4. Persons who are on leave from active military duty.

5. Persons who are blind or permanently disabled.

6. Persons who hold a valid Federal Highly Migratory Species Angling Permits.

7. For days designated by the Director as a free fishing day.

8. Persons exempt shall provide proof and photo ID to an authorized law enforcement officer upon request.

3.7.2 Commercial

No person shall take finfish or squid from the marine waters of Rhode Island commercially without a valid commercial fishing license issued by the Director pursuant to Part 2 of this Subchapter.

3.8 General Provisions

A. Transfer at sea: No one may transfer or attempt to transfer at sea, from one (1) vessel to another, any finfish that are subject to these Regulations.

B. Obstruction of migratory fish passage: No person shall obstruct the free passage of anadromous or catadromous fish in any marine waters, river, or stream, of the State of Rhode Island.

C. Seasons and possession limits are subject to change throughout the season pursuant to § 1.7 of this Subchapter. Notification of any such modification is made pursuant to § 1.7(B)(4) of this Subchapter. It is the responsibility of the licensed person to comply with possession limits and all such modifications.

3.9 Black Sea Bass

3.9.1 Recreational

A. General recreational:

1. Minimum size: Sixteen and one half inches (16.5”). Minimum size measurement for black sea bass does not include the tendril located on the caudal (tail) fin.

2. Season and possession limit:

a. January 1 through May 21: Closed.

b. May 22 through August 26: Two (2) fish per person per calendar day.

c. August 27 through December 31: Three (3) fish per person per calendar day.

B. Licensed Party and Charter vessels:

1. Minimum size: Sixteen inches (16”). Minimum size measurement for black sea bass does not include the tendril located on the caudal (tail) fin.

2. Season and possession limit:

a. January 1 through June 17: Closed.

b. June 18 through August 31: Two (2) fish per person per calendar day.

c. September 1 through December 31: Six (6) fish per person per day.

3.9.2 Commercial

A. Minimum size: Eleven inches (11”).

B. Season, allocation, and possession limit:

1. January 1 through April 30:

a. Allocation: Twenty Eighteen percent (2018%) of the quota.

b. Possession limit: Five hundred (500) pounds per vessel per week.

2. May 1 through June 30:

a. Allocation: TwentyThirty-five percent (2530%) of the quota.

b. Possession limit: Fifty One-hundred (50100) pounds per vessel per calendar day.

3. July 1 through August 15:

a. Allocation: Twenty-two-five percent (2522%) of the quota.

b. Possession limit: Fifty (50) pounds per vessel per calendar day.

4. August 16 through September 15:

a. Allocation: Ten percent (10%) of the quota.

b. Possession limit: Fifty (50) pounds per vessel per calendar day.

5. September 16 through October 15:

a. Allocation: Ten percent (10%) of the quota

b. Possession limit: One hundred (100) pounds per vessel per calendar day

6. October 16 through December 31:

a. Allocation: Ten percent (10%) of the quota.

b. Possession limit: One hundred (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 degradable materials listed below. This panel or door must be a minimum of three inches (3”) by six inches (6”) in dimension.

    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.

3.10 Scup

3.10.1 Recreational

A. Private and rental:

1. Minimum size: Ten and a half inches (10.5”).

2. Season: May 1 through December 31.

3. Possession limit: Thirty (30) fish per person per calendar day.

B. Licensed Party and Charter vessels:

1. Minimum size: Ten and a half inches (10.5”).

2. Season and possession limit:

a. May 1 through August 31: Thirty (30) fish per person per calendar day.

b. September 1 through October 31: Forty (40) fish per person per calendar day.

c. November 1 through December 31: Thirty (30) fish per person per calendar day.

C. Shore:

1. Minimum size: Nine and one half inches (9.5”).

2. Season: May 1 through December 31.

3. Possession limit: Thirty (30) fish per person per calendar day.

3.10.2 Commercial

A. Minimum size: Nine inches (9”)

B. Season, quota 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: UnlimitedTen thousand (10,000) pounds per vessel per 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 through 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 authorized to 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.

3.11 Striped Bass

3.11.1 Recreational

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

B. Maximum size: Less than thirty-one inches (< 31”).

C. Season: January 1 through December 31.

D. Possession limit: One (1) fish per person per day.

E. Gear Restrictions:

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

a. Bait is defined as any marine or aquatic organism live or dead, whole or parts thereof.

b. The circle hook requirement shall not apply to any artificial lure with bait attached.

2. Striped bass caught on any unapproved method of take must be returned to the water immediately without unnecessary injury.

3. It shall be unlawful for any person to gaff or attempt to gaff any striped bass at any time when fishing recreationally. Use of a spear or bolt while diving (SCUBA, Snorkeling or free) shall not be considered gaffing.

a. A gaff is defined as an implement used after a fish has been caught by other means, to puncture, hook or penetrate the fish during the process of retrieval or release of said fish. For the purpose of this definition, a spear or bolt commonly used in spearfishing will not be considered a gaff.

3.11.2 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. Season and possession limit:

a. January 1 through May 28: Closed.

b. May 29 through July 5:

(1) Allocation: Fifty percent (50%) 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 Thursday, 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 6 through December 31:

(1) Allocation: Fifty percent (50%) 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 Thursday, 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. On September 1, a minimum of 50% of the remaining FFT allocation may be transferred to the General Category (GC) and, if such transfer occurs, the GC fishery shall be opened until that allocation is estimated to be harvested.

5. Floating fish trap allocation that has been transferred to the general category fishery 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. Gill net 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 § 3.11.2(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.

3.12 Summer Flounder

3.12.1 Recreational

A. Minimum size: Eighteen inches (18”).

B. Season: May 3 through December 31.

C. Possession limit: Four (4) fish per person per day.

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. The minimum size of two (2) of the four (4) fish may be seventeen inches (17”). The minimum size for the remaining two (2) fish shall be eighteen inches (18”).

3. Season: May 3 through December 31.

4. Possession Limit: Four (4) fish per person per day.

3.12.2 Commercial

A. Minimum size: Fourteen inches (14”).

B. Season, allocation, and possession limit:

1. January 1 through April 30:

    a. Allocation: Fifty-four percent (54%) of the annual quota.

    b. Vessels that possess a valid Rhode Island Summer Flounder Exemption Certificate: One hundred (100) pounds per vessel per calendar day.

    c. Vessels that do not possess a valid Summer Flounder Exemption Certificate: 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: Three Two hundred (300200) pounds per vessel per calendar day.

        (2) Vessels that do not possess a valid Summer Flounder Exemption Certificate: Two hundred (200) 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: Five hundred (500) pounds per vessel per calendar day.

        (2) Vessels that do not possess a valid Summer Flounder Exemption Certificate: Two hundred (200) pounds per vessel per calendar day.

C. 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.

D. Summer flounder may be landed between the hours of 6:00 A.M. to 8:00 P.M. only.

E. 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.

3.13 Tautog

3.13.1 Recreational

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

B. Maximum size: One (1) fish only may be greater than twenty-one inches (21”).

C. Season and possession limit:

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 season and possession limit:

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.

3.13.2 Commercial

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

B. Season, allocation, 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 prior to landing.

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.

3.14 American Eel

3.14.1 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.

3.14.2 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”).

3.15 American Plaice

3.15.1 Recreational

A. Minimum size: Fourteen inches (14”).

B. Fishing year: May 1 through April 30.

C. Possession limit: Unlimited.

3.15.2 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.

3.16 American Shad

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

3.17 Atlantic Herring

3.17.1 Commercial

A. Minimum size: No minimum size.

B. Season: January 1 through December 31.

C. Possession limit: Unlimited.

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.

3.18 Atlantic Salmon

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

3.19 Atlantic Sturgeon

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

3.20 Bluefish

3.20.1 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.

3.20.2 Commercial

A. Minimum size: Eighteen inches (18”).

B. Season and possession limit:

1. January 1 through April 30: One thousand (1,000) pounds per vessel per biweek.

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.

3.21 Coastal Sharks

3.21.1 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. Shortfin Mako: The taking or possession of shortfin mako sharks is prohibited.

C. 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.

D. 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”).

E. Shore-based possession limit:

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.

F. 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.

G. 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.

3.21.2 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. Shortfin Mako: The taking or possession of shortfin mako sharks is prohibited.

D. Fishing year: January 1 through December 31.

E. 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.

F. Season: Seasonal periods for commercial shark fisheries may be established annually either through NOAA Fisheries, ASMFC, or DEM.

G. 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.

H. 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.

I. 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.

J. 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.

K. Prohibition of finning: Finning is defined as the act of taking a shark and removing its fins. Finning of sharks is prohibited in all State waters. All sharks, with the exception of smoothhound, possessed by commercial fishermen within State boundaries must have the tails and fins attached naturally to the carcass until landed. Fins may be cut as long as they remain attached to the carcass, by natural means, with at least a small portion of uncut skin. Sharks may be gutted and bled provided the tail is not removed. Sharks taken and possessed by commercial fishermen may have the heads removed, but no commercial fisherman shall fillet a shark at sea or otherwise cut a shark into pieces at sea.

1. Commercial fishermen may eviscerate and remove the head and all shark fins of smooth dogfish while at sea provided smooth dogfish make up at least 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.

3.22 Cod

3.22.1 Recreational

A. Minimum size: Twenty-two inches (22”).

B. Maximum size: Twenty-eight inches (28”).

C. Season and possession limit:

1. January 1 through April 30: Five (5) fish per person per calendar day.

2. May 1 through July 31: Closed.

3. August 1 through December 31: Five (5) fish per person per calendar day.

3.22.2 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.

3.23 Haddock

3.23.1 Recreational

A. Minimum size: Eighteen inches (18”).

B. Fishing year: May 1 through April 30.

C. Possession limit: Unlimited.

3.23.2 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.

3.24 Menhaden

3.24.1 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.

3.24.2 Commercial

A. Menhaden Management Area:

1. Opening and closure of fishery:

a. Fishery opening – possession limit:

(1) Biomass Floor: When the weekly standing stock as estimated by DEM reaches two million (2,000,000) pounds, the daily possession limit will be one hundred twenty thousand (120,000) pounds per vessel per day.

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 § 3.24.2(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 § 1.9(A)(2) 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 § 3.24.2(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. After the State's quota has been reached, 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, 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 § 3.24.2(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.

3.25 Monkfish

3.25.1 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.

3.25.2 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.

3.26 Pollock

3.26.1 Recreational

A. Minimum size: Nineteen inches (19”).

B. Fishing year: May 1 through April 30.

C. Possession limit: Unlimited.

3.26.2 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.

3.27 River Herring

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

3.28 Skate

3.28.1 Recreational

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

3.28.2 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. Season and possession limit:

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.

3.28.3 Prohibited Species

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

3.29 Spiny Dogfish

3.29.1 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: Seven thousand five hundred (7,500) 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.

3.30 Yellowtail Flounder

3.30.1 Recreational

A. Minimum size: Thirteen inches (13”).

B. Fishing year: May 1 through April 30.

C. Possession Limit: Unlimited.

3.30.2 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.

3.31 Weakfish

3.31.1 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.

3.31.2 Commercial

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

B. Season and possession limit:

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.

3.32 Winter Flounder

3.32.1 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.~~

3.32.2 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.~~

3.32.3 Taking of Winter flounder prohibited

A. 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.

B. 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.

~~E.3.23.4~~ **Minimum mesh size:**

~~1A.~~ 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.

~~2B.~~ 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.

~~a1.~~ 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.

~~b2.~~ 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.

~~3C.~~ 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.~~

3.33 Witch Flounder

3.33.1 Recreational

A. Minimum size: Fourteen inches (14”).

B. Fishing year: May 1 through April 30.

C. Possession Limit: Unlimited.

3.33.2 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.

3.34 Ocean Pout

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

3.35 Atlantic Wolffish

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

3.36 Sand Lance

Possession limit: Two hundred (200) pounds per vessel per day

3.37 Cobia

3.37.1 Recreational

A. Minimum size: Thirty seven inches (37”).

B. Season: January 1 through December 31.

C. Possession Limit: One (1) fish per vessel per day.

3.37.2 Commercial

A. Minimum size: Thirty seven inches (37”).

B. Season: January 1 through December 31.

C. Possession Limit: Two (2) fish per vessel per day.

3.38 Spanish Mackerel

3.38.1 Recreational

A. Minimum size: Fourteen inches (14”); must be landed with head and fins intact.

B. Season: January 1 through December 31.

C. Possession Limit: Fifteen (15) fish per person per day.

3.38.2 Commercial

A. Minimum size: Fourteen inches (14”).

B. Season: March 1 through the last day of February.

C. Possession Limit: Three thousand five hundred (3,500) pounds per vessel per day.