



## RHODE ISLAND

### DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

#### DIVISION OF MARINE FISHERIES

Three Fort Wetherill Road

Jamestown, Rhode Island 02835

## PUBLIC NOTICE OF PROPOSED DIRECT FINAL RULEMAKING

Agency: Department of Environmental Management

Division: Marine Fisheries

Rule identifier: New ERLID #'s tbd

Regulation title(s):

- a. *Part 3 – Finfish* (RICR 250-RICR-90-00-3)
- b. *Part XII – Striped Bass*
- c. *Part XVI – Menhaden*
- d. *Part 1 – General Provisions*

Rulemaking action: Proposed Direct Final Rule.

Type of filing: Adoption (Part 3), repeals (Parts XII and XVI), and amendment (Part 1)

Timetable for action on the proposed rule:

- Submission to Office of Regulatory Reform: September 13, 2017
- Date of public notice: September 15, 2017
- Date of hearing: N/A
- End of Comment period: October 16, 2017

Summary of proposed rule which is expected to be noncontroversial:

- a. To consolidate three separate Rhode Island Marine Fisheries regulations (RIMFR) into a single regulation (proposed adoption of new *Part 3 – Finfish* (ERLID # tbd), along with proposed repeals of RIMFR *Part 3 – Finfish* (RICR 250-RICR-90-00-3), *Part XII – Striped Bass*, and *Part XVI – Menhaden*). Contents of these three regulations are to be transferred in their entirety and substance to the new regulation; non-substantive technical edits and/or clarifications are included;
- b. To codify the format of the regulation pursuant with the requirements of the Rhode Island Code of Regulations (RICR); and
- c. To make non-substantive technical revisions and clarifications to *Part 1 – Definitions* in support of items a. and b.

As a Direct Final Rule, if no formal objection is received by 4:00 PM on October 16, 2017, the Department of Environmental Management will file the rule without affording the public further opportunity for public comment, and the rule will become effective on October 16, 2017.

Authority for this rulemaking: R.I. Gen. Laws Title 20, R.I. Gen. Laws Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with R.I. Gen. Laws § 42-35-2.11, Administrative Procedures Act.

Filed with Sec. of State's office on September 15, 2017



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

~~BUREAU OF NATURAL RESOURCES~~

~~DIVISION OF FISH AND WILDLIFE~~  
~~DIVISION OF LAW ENFORCEMENT~~



~~RHODE ISLAND MARINE FISHERIES REGULATIONS~~

~~Part 3~~  
~~Finfish~~

~~August 9, 2017~~

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

## **PURPOSE**

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

## **AUTHORITY**

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

## **APPLICATION**

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

## **DEFINITIONS**

~~See Rhode Island Marine Fisheries Regulations, *Part I – Definitions*.~~

## **SEVERABILITY**

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

## **SUPERSEDED RULES AND REGULATIONS**

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

## **REGULATIONS**

### **3.1 Quota Management:**

#### **3.1.1 Modification of sub-period allocations based on under/over harvest:**

~~(A) Under harvest: Any un-harvested quota from a sub-period allocation will be equally distributed to the allocations of the remaining sub-periods in the same calendar year.~~

~~(B) Over harvest:~~

~~(1) Any over-harvest of a sub-period allocation will be deducted from the allocations of the remaining sub-periods in the same calendar year.~~

~~(2) Annually, the DFW will charge any over-harvest from the previous year to the entire state allocation of the current year before redistributing according to the~~

~~species specific management plan. For the Tautog fishery, if an over-harvest has occurred for the entire year, that over-harvest will be deducted from the Summer sub-period of the following calendar year.~~

~~3.1.2 Modifications of allocations, seasons and possession limits: For quota managed species, in order to maintain compliance with a federal or regional fisheries management plan (FMP), the DFW has the authority to distribute allocations, including the distribution of allocations among the various gear types, modify possession limits, and change seasons, unless specifically prohibited by the Secretary of Commerce or the ASMFC, in the following manner:~~

~~(A) Allocation changes: If DFW projects that an allocation assigned for a sub-period, or assigned to be available for taking by a particular gear type during that sub-period, may be exhausted prior to the end of the sub-period, or may not be met for a sub-period, DFW may modify the allocation.~~

~~(B) Possession limit changes: If DFW projects that the allocation for a given species may be exhausted prior to the end of a sub-period or may not be met for a sub-period, DFW may modify the possession limit.~~

~~(C) If the quota for a sub-period allocation is fully harvested prior to the end of the sub-period, the DFW will close the fishery for the remainder of the sub-period.~~

~~(D) Notification of modifications to possession limits and/or seasons for marine species regulated under quota: Such notification shall take place in accordance with RIGL section 20-1-12.1, and be provided to the public via the Marine Fisheries listserve, dedicated phone line (423-1920) and webpage. It is the responsibility of the licensed fishermen to know and abide by all possession limits and seasons.~~

### ~~3.2 Transiting:~~

~~3.2.1 During the closure of a Rhode Island state allocated fishery quota, a federally permitted vessel fishing in the Exclusive Economic Zone may transit Rhode Island state waters for the purpose of landing that species in another state, provided the vessel is in compliance with their federal permit, and the vessel nets are stowed pursuant to this section.~~

~~3.2.2 A federally permitted vessel fishing in the Exclusive Economic Zone may transit Rhode Island state waters for the purpose of landing a species in Rhode Island, provided that the species in possession do not have a state allocated quota that is currently closed, provided the vessel is in compliance with their federal permit, provided the vessel nets are stowed pursuant to this section, and provided that the owner or operator possesses a valid RI Landing License pursuant to DEM's "*Commercial and Recreational Saltwater Fishing Licensing Regulations*".~~

~~3.2.3 A vessel in possession of a managed species caught in an open area of state waters may transit a closed portion of RI state waters in possession of that species~~

~~for the purpose of landing, provided the operator of the vessel has a valid commercial or recreational fishing license, and if fishing with nets, the nets are stowed pursuant to this section.~~

~~3.2.4 Stowage of nets: Vessels possessing trawl devices while harvesting summer flounder, scup, black sea bass, or winter flounder, in excess of the limits specified in RIMFR may have nets with mesh less than the minimum size specified in the regulations provided that the net is stowed and is not available for immediate use in accordance with this section. A net that conforms to one of the following specifications and that can be shown not to have been in recent use is considered to be "not available for immediate use".~~

~~(A) A net stowed below deck, provided:~~

- ~~(1) It is located below the main working deck from which the net is deployed and retrieved;~~
- ~~(2) The towing wires, including the "leg" wires are detached from the net; and~~
- ~~(3) It is fan folded (flaked) and bound around its circumference.~~

~~(B) A net stowed and lashed down on deck, provided:~~

- ~~(1) It is fan folded (flaked) and bound around its circumference;~~
- ~~(2) It is securely fastened to the deck or rail of the vessel; and~~
- ~~(3) The towing wires, including the leg wires, are detached from the net.~~

~~(C) A net that is on a reel and is covered and secured, provided:~~

- ~~(1) The entire surface of the net is covered with canvas or other similar material that is securely bound;~~
- ~~(2) The towing wires, including the leg wires, are detached from the net; and~~
- ~~(3) The cod end is removed from the net and stored below deck.~~

~~(D) National Marine Fisheries Service authorized: Nets that are secured in a manner authorized in writing by the National Marine Fisheries Service Regional Director, for the Mid Atlantic regulated mesh area defined as "that area bounded on the east by a line running from the shoreline along 72° 30' west longitude to the intersection of the outer boundary of the Exclusive Economic Zone (EEZ).~~

### 3.3 Possession limit compliance:

3.3.1 Licensed party/charter vessels: Possession limit compliance aboard licensed party/charter vessels is determined by dividing the number of fish by the number of fishermen onboard the boat.

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

3.3.3 Size, possession, and daily limit violations on board vessels: In any instance when there is a violation of the size, possession, or daily limit on board a vessel carrying more than one person when the catch is commingled, the violation shall be deemed to have been committed by the owner of the vessel, or the operator of the vessel, if the owner is not on board.

3.3.4 A person who takes marine product /species utilizing a vessel and also without the assistance of a vessel is only allowed one possession limit per calendar day unless an alternative period of time is specifically provided in the governing regulation.

### 3.4 Recreational use of nets for bait:

3.4.1 Marine species may lawfully be taken for personal use (not for sale) with nets, provided that all existing minimum size and possession limit restrictions for the species possessed are adhered to.

3.4.2 A two-quart per person possession limit is allowed for all unregulated marine species.

3.4.3 Beach seines or other nets, where allowed for the recreational harvest of marine species shall not exceed four (4) feet in depth and twenty (20) feet in length.

3.5 Transfer at sea: No one may transfer or attempt to transfer at sea, from one vessel to another, any finfish that are subject to these regulations.

3.6 Reporting: Accurately completed copies of the federal Vessel Trip Reports or the state reporting forms prescribed by the DFW shall be kept in numerical order on board the vessel dating back to January 1<sup>st</sup> and furnished upon request. A vessel shall be exempt from this requirement if the captain of said vessel is currently enrolled in an electronic logbook program. Instead, the vessel must have all records dating back to January 1<sup>st</sup> entered electronically. Reference DEM's "*Commercial and Recreational Saltwater Fishing Licensing Regulations*". (RIGL 20-1-20)

### **3.7 Summer Flounder (Fluke)**

#### **3.7.1 Recreational:**

- ~~(A) Minimum size: Nineteen inches (19").~~
- ~~(B) Season: May 1 through December 31.~~
- ~~(C) Possession limit: Four (4) fish, whether caught within the jurisdiction of this state or otherwise.~~

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#### **3.7.2 Commercial:**

- ~~(A) Minimum size: Fourteen (14) inches.~~
- ~~(B) Seasons, allocations, and possession limits: A total annual statewide quota for Summer flounder will be established for the State by the Atlantic States Marine Fisheries Commission (ASMFC) and/or NOAA Fisheries.~~
  - ~~(1) Winter sub-period: January 1 – April 30 annually:~~
    - ~~(a) Target allocation: 54% of the annual quota.~~
    - ~~(b) Possession limit between January 1 and the start of the Winter sub-period of the Aggregate Landing Program, annually:~~
      - ~~(i) Vessels that possess a valid RI Summer Flounder Exemption Certificate (Exemption Certificate): Two hundred (200) pounds per vessel per calendar day.~~
      - ~~(ii) Vessels that do not possess a valid Exemption Certificate: Two hundred (200) pounds per vessel per calendar day.~~
    - ~~(c) Possession limit during the Winter sub-period of the Aggregate Landing Program, annually:~~
      - ~~(i) Vessels not permitted in the Aggregate Landing Program but which possess a valid Exemption Certificate: Two hundred (200) pounds per vessel per calendar day. When 90% of the Winter sub-period quota has been harvested as determined by the DFW, the possession limit per vessel shall be one hundred (100) pounds per calendar day.~~
      - ~~(ii) Vessels that do not possess a valid Exemption Certificate: Two hundred (200) pounds per vessel per calendar day. When 90% of the Winter sub-period quota has been harvested as determined by the DFW, the possession limit per vessel shall be one hundred (100)~~



~~pounds per calendar day.~~

~~(iii) Aggregate Landing Program: One thousand three hundred (1,300) pounds per vessel per bi-weekly period. The bi-weekly periods shall be specified in the Aggregate Landing Permit. When 90% of the Winter sub-period quota has been harvested as determined by the DFW, the Aggregate Landing Program will terminate and the possession limit shall be one hundred (100) pounds per vessel per calendar day.~~

~~(2) Summer sub-period: May 1 – September 15 annually:~~

~~(a) Target allocation: 35% of the annual quota.~~

~~(b) Possession limit between May 1 and May 31, annually:~~

~~(i) Vessels that possess a valid Exemption Certificate: Fifty (50) pounds per vessel per calendar day. The fishery is closed Friday, Saturday, and Sunday each week.~~

~~(ii) Vessels that do not possess a valid Exemption Certificate: Fifty (50) pounds per vessel per calendar day. The fishery is closed Friday, Saturday, and Sunday each week.~~

~~(c) Possession limit during the Summer sub-period of the Aggregate Landing Program, annually:~~

~~(i) Vessels not permitted in the Aggregate Landing Program, but which possess a valid Exemption Certificate: Fifty (50) pounds per vessel per calendar day. The fishery is closed Friday, Saturday, and Sunday each week.~~

~~(ii) Vessels that do not possess a valid Exemption Certificate: Fifty (50) pounds per vessel per calendar day. The fishery is closed Friday, Saturday, and Sunday each week.~~

~~(iii) Aggregate Landing Program: Two hundred (200) pounds per vessel per week. When 80% of the Summer sub-period quota has been harvested as determined by the DFW the program will terminate and the possession limit per vessel shall be fifty (50) pounds per calendar day. The fishery is closed Friday, Saturday, and Sunday each week.~~

~~(3) Fall Sub-Period: September 16 – December 31 annually:~~

~~(a) Target allocation: 11% of the annual quota.~~

~~(b) Possession limit:~~

~~(i) Vessels that possess a valid Exemption Certificate: One hundred (100) pounds per vessel per calendar day.~~

~~(ii) Vessels that do not possess a valid Exemption Certificate: One hundred (100) pounds per vessel per calendar day.~~

~~3.7.3 Aggregate Landing Program:~~

~~(A) Sub-periods:~~

~~(1) Winter: Beginning on the Sunday of the first full week in February through April 30 annually, or until 90% of the Winter sub-period quota has been harvested as determined by the DFW.~~

~~(2) Summer: Beginning on June 1 through September 15 annually, or until 80% of the Summer sub-period quota has been harvested as determined by the DFW.~~

~~(B) 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 DFW and the Division of Law Enforcement each of the following:~~

~~(1) The vessel, if harvesting Summer flounder from federal waters, possesses a valid federal Summer Flounder Moratorium Permit and RI Summer Flounder Exemption Certificate (Exemption Certificate);~~

~~(2) The vessel's operator, if harvesting exclusively in State waters, holds a valid RI commercial fishing license to harvest or land summer flounder and possesses a valid Exemption Certificate;~~

~~(3) The vessel's operator has not been assessed a criminal or administrative penalty in the past three years for a violation of this section or has more than one marine fisheries violation.~~

~~(C) Application: Application for an Aggregate Landing Program Permit shall be made on forms as prescribed by the Director.~~

~~(D) No vessel shall possess simultaneously more than one Aggregate Landing Program permit;~~

~~(E) 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.~~

~~(F) Any applicant who is permitted for the Winter sub-period for the Aggregate Landing Program may not participate in the Summer sub-period within the same year.~~

#### ~~3.7.4 Rhode Island Summer Flounder Exemption Certificate:~~

~~(A) Application: Applicant's shall provide the following:~~

~~(1) A copy of the operator's valid current Rhode Island commercial fishing license or non-resident landing license, and Federal Fluke Permit if the summer flounder is to be taken in the EEZ; and~~

~~(2) A completed notarized application; and~~

~~(3) Proof that the vessel meets the requirements set out in this section; and~~

~~(4) 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~~

~~(5) A copy of the vessel's U.S. Coast Guard documentation papers or state issued boat registration certificate proving ownership of the vessel.~~

~~(B) Eligibility: DFW will issue an Exemption Certificate for a vessel if the owner of the vessel or his/her representative applies to DFW prior to January 1, 1997, for the issuance of such a certificate and demonstrates to the satisfaction of the Director that:~~

~~(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 pound of summer flounder to a Rhode Island licensed dealer during the period from January 1, 1987, through December 31, 1992; or~~

~~(b) The vessel fished exclusively in the Exclusive Economic Zone (EEZ) and landed and sold in excess of one pound of summer flounder to a~~

~~licensed Rhode Island licensed dealer sometime during the period January 1, 1987, through December 31, 1992. The Department may require additional supporting documents including but not limited to the ship's logs, ice and fuel slips; or~~

~~(c) The vessel replaces a vessel which was operated by a person who possessed a valid Rhode Island commercial fishing license, and the vessel being replaced landed and sold in excess of one pound of summer flounder to a Rhode Island licensed dealer during the period from January 1, 1987, through December 31, 1992, and if the vessel being replaced was lost by sinking or was otherwise destroyed, the replaced vessel is required to have been owned by the applicant at the time of the loss; or~~

~~(d) The vessel replaces a vessel which fished exclusively in the EEZ and landed and sold in excess of one pound of summer flounder to a Rhode Island licensed dealer, during the period January 1, 1987, through December 31, 1992, and if the vessel being replaced was lost by sinking or was otherwise destroyed, the replaced vessel is required to have been owned by the applicant at the time of the loss.~~

~~(e) If the vessel is replacing a vessel that was lost by sinking or was otherwise destroyed, documentation must be presented from a licensed insurance company, U.S. Coast Guard report, or some other valid evidence of ownership to the satisfaction of the Director.~~

~~(C) Transfer of an Exemption Certificate: An Exemption Certificate issued by the DFW is only valid for the vessel to which it is issued. A vessel may be sold with all certificates, permits (state and federal) and history transferred together or without the certificates, permits (state and federal) and history for purposes of replacing the vessel. In instances when a vessel owner retains all certificates, permits, and history they must be applied to a replacement vessel owned by said individual within ninety (90) days.~~

~~(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. Individuals who purchase a vessel issued an Exemption Certificate must supply credible written evidence verifying that they are the full owner of said vessel. Vessel ownership will be determined solely by an issued and valid (unexpired) US Coast Guard documentation or state registration.~~

~~(2) Replacement Vessels: A vessel owner wishing to transfer an Exemption Certificate must provide proof to the satisfaction of the DFW 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 an issued and valid (unexpired) US Coast Guard documentation or state registration.~~

~~(b) Vessel permits (state and federal), Exemption Certificates, and fishing history cannot be split.~~

~~(c) An Exemption Certificate may not be combined to create larger replacements vessels.~~

~~(d) The replacement vessel may not exceed a 10 percent increase in length overall (LOA), a 10 percent increase in gross registered tonnage (GRT) or net tonnage (NT), or a 20 percent increase in horsepower of the vessel's baseline specifications, as applicable.~~

~~(e) 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.~~

~~(f) 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:~~

~~(i) The vessel's horsepower may be increased only once, whether through refitting or replacement. Such an increase may not exceed 20 percent of the horsepower of the vessel's baseline specifications, as applicable.~~

~~(ii) The vessel's length, GRT, and NT may be increased only once, whether through refitting or replacement. Any increase in any of these three specifications of vessel size may not exceed 10 percent of the vessel's baseline specifications, as applicable. If any of these three specifications is increased, any increase in the other two must be performed at the same time. This type of upgrade may be done separately from an engine horsepower upgrade.~~

~~(D) 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.~~

~~3.7.5 Otter trawl Mesh size: Otter trawlers that land or possess 100 pounds (45.4 kg) or more of Summer flounder per day from May 1 through October 31; or 200 pounds (90.8 kg) or more of summer flounder per trip from November 1 through April 30, must fish with nets or combinations of nets that have a minimum mesh size of 5.5 inch (14.0 cm) diamond, or 6 inch (15.2 cm) square mesh applied throughout the body, extension(s) and cod end portion of the net.~~

~~3.7.6 Summer flounder may be landed between the hours of 6:00 AM to 8:00 PM only;~~

~~3.7.7 Control Date: A control date of December 31, 2010, is established for the commercial Summer flounder fishery in Rhode Island.~~

### **3.8 Winter Flounder**

#### **3.8.1 Recreational:**

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

~~(B) Season: March 1 through December 31 annually.~~

~~(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.~~

#### **3.8.2 Commercial:**

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

~~(B) Season: January 1—December 31.~~

~~(C) Possession limit: Fifty (50) pounds per vessel per day.~~

~~(D) Closed Areas: The harvest or possession of Winter flounder is prohibited in Narragansett Bay north of the Colregs line; Potter Pond; Point Judith Pond and~~

~~the Harbor of Refuge.~~

~~(E) Minimum mesh size:~~

~~(1) Bottom trawl nets: Six (6) inch diamond mesh or six and one half (6.5) inch square mesh applied throughout the body and extension of the net, or any combination thereof, and six and one half (6.5) inch diamond mesh or six and one half (6.5) inch square mesh applied to the cod end of the bottom trawl nets.~~

~~(2) Gill nets: Six and one half (6.5) inch diamond mesh or six and one half (6.5) inch square mesh applied throughout the net. Vessels may utilize commercial fishing gear with mesh smaller than the sizes referenced in this section provided they do not possess any Winter flounder.~~

~~(a) For vessels greater than 45 ft. in length overall, a diamond mesh cod end is defined as the first 50 meshes counting from the terminus of the net, and a square mesh cod end is defined as the first 100 bars counting from the terminus of the net.~~

~~(b) For vessels 45 ft or less in length overall, a diamond mesh cod end is defined as the first 25 meshes counting from the terminus of the net, and a square mesh cod end is defined as the first 50 bars counting from the terminus of the net.~~

~~(F) With the exception of gillnets and fyke nets, fishing for Winter flounder in waters north of the seaward entrance to all coastal salt ponds, (with the exception of Point Judith Pond and the Harbor of Refuge where the harvest or possession of winter flounder is prohibited), including the waters of Narrow River, and the waters of Little Narragansett Bay north of a line from Napatree Point to the western end of Sandy Point, including the waters of the Pawcatuck River, will be prohibited from one hour after sunset until one hour before sunrise. Gillnets and fyke nets may not be hauled from one hour after sunset to one hour before sunrise.~~

### **3.9 Tautog (Blackfish)**

#### **3.9.1 Recreational:**

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

~~(B) Seasons and possession limits:~~

~~(1) April 15 through May 31: Three (3) fish per person per calendar day.~~

~~(2) June 1 through July 31: Closed.~~

~~(3) August 1 through October 14: Three (3) fish per person per calendar day.~~

~~(4) October 15 through December 15: Six (6) fish per person per calendar day.~~

~~(5) 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.~~

~~(C) Licensed Party and Charter vessel seasons and possession limits:~~

~~(1) April 15 through May 31: Three (3) fish per person per calendar day.~~

~~(2) June 1 through July 31: Closed.~~

~~(3) August 1 through October 14: Three (3) fish per person per calendar day.~~

~~(4) October 15 through December 15: Six (6) fish per person per calendar day.~~

~~(5) Licensed party/charter boats are not subject to the ten (10) fish per vessel per calendar day restriction.~~

~~(6) Reporting: Any licensed party/charter boat participating in the tautog fishery must report each trip targeting tautog into the elogbook (the electronic logbook hosted by ACCSP).~~

~~3.9.2 Commercial:~~

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

~~(B) Seasons, allocations, and possession limit: The total allowable harvest of tautog will be established annually, and will be that amount allocated to the State of Rhode Island by the Regional Fishery Management Council and/or the ASMFC. The quota shall only be available during the following seasons:~~

~~(1) Spring sub-period (April 15 — May 31):~~

~~(a) Allocation: 40% of the annual quota.~~

~~(b) Possession limit: Ten (10) fish per vessel per day.~~

~~(2) Summer sub-period (August 1 — September 15):~~

~~(a) Allocation: 20% of the annual quota.~~



~~(b) Possession limit: Ten (10) fish per vessel per day.~~

~~(3) Fall sub-period (October 15—December 31):~~

~~(a) Allocation: 40% of the annual quota~~

~~(b) Possession limit: Ten (10) fish per vessel per day.~~

### **3.10 Bluefish**

#### **3.10.1 Recreational:**

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

~~3.10.2 Commercial: A total allowable harvest of Bluefish will be established annually, and shall be that amount allocated to the State of Rhode Island by the Regional Fishery Management Councils and/or the ASMFC.~~

~~(A) Minimum size: Twelve inches (12").~~

~~(B) Seasons and allocations:~~

~~(1) January 1 through April 30: Five hundred (500) pounds per vessel per week.~~

~~(2) May 1 through November 11: 6,000 pounds per vessel per week.~~

~~(3) November 12 through December 31: Five hundred (500) pounds per vessel per week.~~

### **3.11 Scup**

#### **3.11.1 Recreational:**

~~(A) Minimum size: Ten inches (10").~~

~~(B) Season: May 1 through December 31 annually.~~

~~(C) Possession limit: Thirty (30) Scup per person per calendar day, whether caught within the jurisdiction of this State or otherwise.~~

~~(D) Special shore-fishing provision:~~

~~(1) Locations: India Point Park, Providence; Conimicut Park, Warwick; Rocky Point, Warwick; Stone Bridge, Tiverton; East and West Walls (Harbor of Refuge), Narragansett; Fort Wetherill, Jamestown; and Fort Adams, Newport:~~

~~(2) Minimum size: Nine inches (9").~~

~~(3) Season: May 1 through December 31.~~

~~(4) Possession limit: Thirty (30) Scup per person per calendar day.~~

~~(E) Licensed Party and Charter vessels seasons and possession limit:~~

~~(1) May 1 through August 31: Thirty (30) Scup per person per calendar day, whether caught within the jurisdiction of this State or otherwise.~~

~~(2) September 1 through October 31: Forty-five (45) scup per person per calendar day whether caught within the jurisdiction of this State or otherwise.~~

~~(3) November 1 through December 31: Thirty (30) Scup per person per calendar day whether caught within the jurisdiction of this State or otherwise.~~

#### ~~3.11.2 Commercial:~~

~~(A) Minimum size: Nine (9) inches.~~

~~(B) Seasons, quotas and possession limit: A total allowable harvest of Scup will be established annually, and shall be that amount allocated to the State of Rhode Island by the Regional Fishery Management Councils and/or the ASMFC.~~

~~(1) Winter I sub-period (January – April): 50,000 pounds per vessel per calendar day, decreasing to 1,000 pounds per vessel per calendar day once 80% of the federal Winter I coastwide Scup quota has been harvested as determined by NOAA Fisheries.~~

~~(2) Summer – Fall sub-period (May – October): The State quota for scup will be divided as follows:~~

~~(a) General Category (gear types other than floating fish traps): Forty percent (40%) of the Summer- Fall sub-period quota will be allocated to all gear types except floating fish traps and allocated as follows:~~

~~(i) Summer sub-period (May 1 through the Saturday before the third Sunday in September):~~

~~a. Allocation: Two-thirds (2/3) of the General Category quota.~~

~~b. Possession limit: 10,000 pounds per vessel per calendar week. The calendar week period shall begin on Sunday at 12:00 AM and ends on the following Saturday at 11:59 PM. When the Summer sub-period quota has been harvested as determined by the DFW, the fishery will close. The fishery will re-open on the third Sunday in September.~~

~~(ii) Fall sub-period (third Sunday in September through October 31):~~

~~a. Allocation: One-third (1/3) of the General Category quota.~~

~~b. Possession limit: 10,000 pounds per vessel per calendar week. The calendar week period shall begin on Sunday at 12:00 AM and ends on the following Saturday at 11:59 PM. When the Fall sub-period quota has been harvested as determined by the DFW, the fishery will close. The fishery will re-open at the beginning of the Winter II sub-period.~~

~~(b) Floating fish trap: Sixty percent (60%) of the Summer-Fall sub-period quota will be allocated to the floating fish trap sector.~~

~~(i) During those years in which the federal Winter I coastwide Scup quota is completely exhausted prior to April 15, the floating fish trap quota will be available on April 15. During those years in which the federal Winter I coastwide Scup quota is not completely exhausted prior to April 15, the floating fish trap quota will be available on May 1.~~

~~(ii) If the DFW estimates that the Floating Fish Trap sector will not fully utilize its scup allocation prior to the end of the Summer-Fall sub-period, beginning on June 15, the DFW has the authority to move the designated Floating Fish Trap sector allocation in to the general category fishery as set forth in this part. The DFW will consult with the Floating Fish Trap operators or their designee prior to enacting any allocation roll over, and will maintain written correspondence in the form of a letter on file as proof of said consultation.~~

~~(iii) If the DFW estimates that the Floating Fish Trap sector may have a reasonable likelihood of utilizing prior to the end of the Summer-Fall sub-period, a portion of its scup allocation that has been transferred to the general category scup fishery, and has not as yet been used by the general category scup fishery, the DFW has the authority to move the designated general category Scup fishery quota to the Floating Fish Trap sector. Any quota that was rolled over from the General Category to the Floating Fish Trap sector shall not exceed the amount that may have been transferred from the Floating Fish Trap sector to the General Category.~~

~~(iv) Floating Fish Trap Reporting Requirement: Floating fish trap operators permitted pursuant to RIGL Section 20-5-1 will be required to report landings of scup to SAFIS every Monday, Wednesday, and Friday, of every week that the trap is in operation. If there is non-compliance with this reporting requirement, the Floating Fish Trap operators will be notified and will default to the following program:~~

~~a. April 15 — October 31: During those years in which the Winter I Federal Coastwide Scup Quota Allocation is completely exhausted prior to April 15, the floating fish trap quota will be available on April 15. The possession limit will be 25,000 pounds per floating fish trap per calendar day. Once ninety percent (90%) of the sub-period allocation is projected to be harvested, the possession limit will be 5,000 pounds per fish trap licensee per calendar day until one hundred percent (100%) of the quota has been harvested.~~

~~b. May 1 — October 31: During those years in which the Winter I federal coastwide scup quota allocation is not completely exhausted prior to April 15, the floating fish trap quota will be available on May 1. The possession limit will be 25,000 pounds per floating fish operator per calendar day. Once ninety percent (90%) of the sub-period allocation is projected to be harvested, the possession limit will be 5,000 pounds per fish trap licensee per calendar day until one hundred percent (100%) of the quota has been harvested~~

~~(v) Floating Fish trap operator: For purposes of this section, fish trap operator shall refer to a resident person or resident corporation currently issued a permit pursuant to RIGL §20-5-2. The maximum possession limit per floating fish trap licensee shall be the amount set forth above regardless of the number of authorized trap locations, the number of vessels or the number of licensed fishermen who may be working for or may enter into contract with the floating fish trap 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) Winter II (November 1 — December): 2,000 pounds per vessel per calendar day, decreasing to 500 pounds per vessel per calendar day once 70% of the federal Winter II coastwide Scup quota has been harvested as determined by NOAA Fisheries.~~

~~(C) Trawl vessel gear restrictions - minimum mesh size: Owners or operators of otter trawl vessels possessing five hundred (500) pounds or more of scup from November 1 through April 30; or two hundred (200) pounds or more of scup from~~

~~May 1 through October 31, may only fish with nets that have a minimum mesh size of five (5) inches diamond (inside measure) or square mesh with a minimum length of seventy-five (75) meshes from the terminus of the net. For nets with less than seventy-five (75) mesh cod ends, the entire net will be five (5) inch minimum size diamond or square mesh.~~

~~(D) Scup pots:~~

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

~~(2) Pot construction - escape vents: All scup pots must be constructed with escape openings. Openings may be circular, rectangular, or square, and must be a minimum of 3.1" diameter, 2-1/4" X 5-3/4" if rectangular or may be constructed of 2-1/4" X 2-1/4" wire mesh. Escape vents must be attached with biodegradable fasteners which allow vents or panels to fall away from the trap after loss.~~

~~(3) The hinges or fasteners of one panel or door must be made of one of the following degradable materials:~~

~~(a) Un-treated hemp, jute, or cotton string 3/16" (4.8mm) or smaller;~~

~~(b) Magnesium alloy, timed float releases (pop-up devices) or similar magnesium alloy fasteners;~~

~~(c) Un-galvanized or uncoated iron wire of .094" (2.4mm) or smaller; or~~

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

~~(4) Buoy Lines: The use of floating line within eight (8) feet of the surface of the water is prohibited on all scup pots, traps, or similar contrivances.~~

### ~~**3.12 Atlantic Salmon**~~

~~3.12.1 Moratorium on harvest: The harvest, landing, or possession of Atlantic salmon within the territorial waters of the State of Rhode Island is prohibited.~~

### ~~**3.13 Atlantic Sturgeon**~~

~~3.13.1 Moratorium on Harvest: The harvest, landing, or possession of Atlantic Sturgeon within the territorial waters of the State of Rhode Island is prohibited.~~

### **3.14 Black Sea Bass**

#### **3.14.1 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) May 25 through August 31: Three (3) fish per person per calendar day, whether caught within the jurisdiction of this State or otherwise.~~

~~(2) September 1 through September 21: Seven (7) fish per person per calendar day, whether caught within the jurisdiction of this State or otherwise.~~

~~(3) September 22 through October 21: Closed.~~

~~(4) October 22 through December 31: Seven (7) fish per person per calendar day, whether caught within the jurisdiction of this State or otherwise.~~

#### **3.14.2 Commercial:**

~~(A) Minimum size: Eleven (11) inches, whether caught within the jurisdiction of this State or otherwise.~~

~~(B) Seasons, allocations, and possession limits: A state quota for Black sea bass will be established annually and shall be the most recent amount allocated to the State of Rhode Island by the ASMFC and/or the Secretary of the NOAA Fisheries. The quota shall be available during the following sub-periods:~~

~~(1) January 1 — April 30:~~

~~(a) Allocation: Twenty-five percent (25%) of the quota.~~

~~(b) Possession limit: 750 pounds per vessel per week.~~

~~(2) May 1 — June 30:~~

~~(a) Allocation: Twenty-five percent (25%) of the quota.~~

~~(b) Possession limit: Fifty (50) pounds per vessel per calendar day. The commercial fishery is closed on Friday of each week during this sub-period.~~

~~(3) July 1 — July 31:~~

~~(a) Allocation: Nineteen and a half percent (19.5%) of the quota.~~

~~(b) Possession limit: Fifty (50) pounds per vessel per calendar day. The commercial fishery is closed on Friday of each week during this sub-period.~~

~~(4) August 1—September 14: Closed.~~

~~(5) September 15—October 31:~~

~~(a) Allocation: Nineteen and a half percent (19.5%).~~

~~(b) Possession limit: Fifty (50) pounds per vessel per calendar day. The commercial fishery is closed on Friday of each week during this sub-period.~~

~~(6) November 1—December 31:~~

~~(a) Allocation: Eleven percent (11%).~~

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

~~3.14.3 Black sea bass pot construction: All black sea bass pots must be constructed with two escape openings in the parlor portion of the pot. Openings may be circular, rectangular, or square, and must be a minimum of 2.5" diameter if circular, 1- 3/8" X 5-3/4" if rectangular, 2" X 2" if square. Escape vents must be attached with biodegradable fasteners which allow vents or panels to fall away from the trap after loss.~~

~~(A) The hinges or fasteners of one panel or door must be made of one of the following degradable materials:~~

~~(1) Un-treated hemp, jute, or cotton string 3/16" (4.8mm) or smaller;~~

~~(2) Magnesium alloy, timed float releases (pop-up devices) or similar magnesium alloy fasteners;~~

~~(3) Un-galvanized or uncoated iron wire of .094" (2.4mm) or smaller; or~~

~~(4) 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.~~

~~(B) Buoy Lines: The use of floating line within eight (8) feet of the surface of the water is prohibited on all scup pots, traps, or similar contrivances.~~

### **3.15 Spiny dogfish**

#### **3.15.1 Commercial:**

~~(A) Seasons, allocations, and possession limit: RI is currently designated as a state that is part of the Northern region. A Northern region possession limit and quota for spiny dogfish will be established annually by the ASMFC. The Northern region quota for spiny dogfish shall be the most recent allocation by the ASMFC, which is currently set at 58% of the coastwide quota.~~

~~(1) Season: May 1 until April 30 of the following year.~~

~~(2) Possession limit: 5,000 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 DFW shall close the fishery for the remainder of the designated period.~~

~~(3) DFW is hereby authorized to enter into agreements with the other Northern Region States for the purpose of establishing seasons and possession limits governing the taking of spiny dogfish, and may make adjustments as deemed necessary to comply with said agreements. DFW 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.~~

### **3.16 American Eel**

#### **3.16.1 Recreational:**

~~(A) Minimum size: Nine (9) inches.~~

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

~~(C) Possession limit: Twenty-five (25) fish per angler per day.~~

#### **3.16.2 Licensed Party and Charter vessel season and possession limit:**

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

~~(B) 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.

### 3.16.3 Commercial:

(A) Minimum size: Nine (9) inches.

(B) Season: January 1 through December 31 annually.

(1) Closed season: September 1 through December 31 annually for any gear type other than baited traps/pots or spears.

(C) Possession limit: Unlimited.

(D) Commercial Eel pot restrictions: Eel pots shall have a minimum mesh size of  $\frac{1}{2}$  by  $\frac{1}{2}$  inches or shall have a 4 by 4 inch escape panel constructed of a mesh size of at least  $\frac{1}{2}$  by  $\frac{1}{2}$  inch mesh. The escape vent allowance will be in effect from January 1, 2014 — December 31, 2016, after which the entire pot must meet the  $\frac{1}{2}$  by  $\frac{1}{2}$  inches mesh requirement.

### 3.17 American Shad

7.17.1 Moratorium on harvest: The harvest, landing, or possession of American Shad (*Alosa sapidissima*) within the territorial waters of the State of Rhode Island is prohibited.

### 3.18 Weakfish

#### 3.18.1 Recreational:

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

(B) Season: January 1 through December 31, annually.

(C) Possession limit: One (1) fish per person per calendar day, whether caught within the jurisdiction of this state or otherwise.

#### 3.18.2 Commercial:

(A) Minimum size: Sixteen inches (16"), whether caught within the jurisdiction of this State or otherwise.

(B) Seasons and possession limits:

(1) June 1 through June 30: One hundred (100) pounds per vessel per calendar day.

(2) August 7 through November 8: One hundred (100) pounds per vessel

~~per calendar day.~~

~~(3) At all other times, the possession limit is one hundred (100) pounds per vessel per calendar day as bycatch only with an equivalent poundage of other species required to be on board the vessel. Provided, however, that the commercial hook and line fishery is not permitted a bycatch allowance.~~

~~(C) For directed trawl operations, cod end mesh size must be  $\geq 4.5$ " diamond or 4.0" square.~~

### **3.19 Atlantic Herring (*Clupea harengus*)**

#### **3.19.1 Commercial:**

~~(A) Season: The season for Atlantic herring begins annually on January 1. When the Atlantic herring quota has been harvested as determined by NOAA Fisheries, the season will close.~~

~~(B) Possession limit: 2,000 pounds per vessel per day, unless the vessel holds a RI State Waters Atlantic Herring Fishing permit.~~

~~(C) Rhode Island State Waters Atlantic Herring Fishing Permit: A permit from DFW is required for vessels engaged in the fishing and/or processing of over 2,000 pounds of Atlantic herring per day in Rhode Island state waters.~~

~~(1) Issuance of this permit is contingent on fishing vessel captains attending a meeting with DFW staff where they are required to give proof that:~~

~~(a) The vessel and its captain(s) have obtained all necessary and applicable authorizations to fish for Atlantic herring in RI waters (license, endorsements(s), and vessel declarations);~~

~~(b) The vessel captain(s) have provided a valid email address to DFW 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 DFW a chart of fixed commercial fishing gear locations in Rhode Island waters and will have said chart in his/her possession while engaged in the fishing and/or processing of Atlantic Herring in RI waters;~~

~~(d) The vessel captain(s) have received from DFW a copy of all applicable regulations governing the commercial harvest of Atlantic herring in Rhode Island waters.~~

~~(2) Permits shall be issued annually and are valid for one calendar year from January 1 to December 31.~~

~~(3) Issuance of the permit is contingent upon a background check to determine if the applicant captain or vessel has been assessed a criminal or administrative penalty in the past three years of this section or 7.20 (River herring) or more than one marine fisheries violation.~~

~~(D) River Herring Bycatch Allowance: Vessels possessing a federal Atlantic herring permit fishing in federal waters may transit Rhode Island state waters and make a landing in possession of alewives, *Alosa pseudoharengus* or blueback herring, *Alosa aestivalis* (river herring) provided that the count of the combined river herring is 5% or less than the count of Atlantic herring onboard the vessel.~~

~~(1) The percentage of River herring in the catch will be assessed by sorting and counting a batch of fish taken from the catch of Atlantic herring on board the vessel or being landed by the vessel. This determination as to the percentage of River herring in the catch shall be accomplished by filling a container as defined herein, with a portion of the catch and examining the contents of said container. The percentage of river herring in said container shall be deemed to be representative of the percentage of River herring in the catch as a whole for purposes of a determination as to whether a vessel is in compliance with the requirements of this section.~~

~~(2) A batch of fish is defined as all fish in a separate container.~~

~~(3) A container is defined as any box, tote, bag, bucket or other receptacle capable of retaining at least 25 gallons of loose fish which may be separated from the total catch of Atlantic herring being landed.~~

~~(E) Atlantic Herring Processing: No person may process Atlantic herring for purposes other than human consumption. Direct mealing of Atlantic herring is prohibited.~~

~~(F) Atlantic Herring - Vessel Size and Horsepower: No vessel harvesting Atlantic herring in the Atlantic coast herring fishery shall exceed 165 feet in length overall, and 3,000 horsepower.~~

### **3.20 River Herring**

~~3.20.1 Moratorium on harvest: The harvest, landing, or possession of Alewives, *Alosa pseudoharengus* or Blueback herring *Alosa aestivalis*, within the territorial waters of the State of Rhode Island is prohibited.~~

### **3.21 Monkfish**

#### **3.21.1 Recreational:**

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

~~length, whether caught within the jurisdiction of this State or otherwise.~~

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

### 3.21.2 Commercial:

~~(A) Minimum size: Seventeen inches (17") total length or eleven inches (11") tail length whether caught within the jurisdiction of this State or otherwise.~~

~~(B) Fishing year: The commercial monkfish fishery shall operate on a May 1 through April 30 fishing year.~~

~~(C) Possession limit:~~

~~(1) Non-federally permitted RI licensed vessel: 700 pounds tail weight or 2,037 pounds whole weight per vessel per calendar day. Whole weight is defined as the weight of monkfish that are gutted (i.e. stomach, liver, and other entrails removed) and have the head and tail attached. In SAFIS landing monkfish in the "whole" is reported using the grade "gutted, head on, tail on".~~

~~(a) The possession of monkfish livers may not exceed the number of gutted fish and tails combined.~~

~~(b) The possession of monkfish heads may not exceed the number of gutted head-off fish and tails combined.~~

~~(2) The possession limit may be modified on the basis of a RI state water monkfish quota as set by DEM, which shall be equal to 3% of the federal Southern Management Area (SMA) Total Allowable Landings (TAL) as specified by NOAA Fisheries. When 2% of the SMA TAL has been harvested as determined by the DFW, the possession limit will decrease to 50 pounds tail weight or 166 pounds whole weight per vessel per calendar day for the remainder of the fishing year.~~

~~(D) Vessels in possession of a federal permit authorizing the harvest of monkfish may harvest monkfish in state waters if and only if they are operating during a previously and properly declared day-at-sea; in such instances, such vessels may harvest monkfish in the amount authorized to be possessed pursuant to federal regulations.~~

### **3.22 Cod**

#### **3.22.1 Recreational:**

~~(A) Minimum size: Twenty-two inches (22"), whether caught within the jurisdiction of this State or otherwise.~~

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

#### **3.22.2 Commercial:**

~~(A) Minimum size: Nineteen inches (19"), whether caught within the jurisdiction of this State or otherwise.~~

~~(B) Fishing year: The commercial Cod fishery shall operate on a May 1 through April 30 fishing year.~~

~~(C) Possession limit: 1,000 pounds per vessel per calendar day for any vessel fishing in state waters. The possession limit may be modified on the basis of a RI state water cod quota as set by DFW, which shall be equal to 1% of the federal Georges Bank cod annual catch limit (ACL) for the given fishing year. When 90% of the state water quota has been harvested as determined by the DFW, the possession limit will decrease to 75 pounds of cod per vessel per calendar day for the remainder of the fishing year.~~

### **3.23 Repealed**

### **3.24 Coastal Sharks**

#### **3.24.1 Recreational:**

~~(A) Recreationally permitted species: Recreational fishermen may possess any of the species of sharks listed in Table 3.1.~~

**Table 3.1:** Recreationally Permitted Species List

<del>Smooth Dogfish (Smoothhound)<sup>†</sup></del>	<del><i>Mustelus canis</i></del>
<del>Atlantic sharpnose</del>	<del><i>Rhizoprionodon terraenovae</i></del>
<del>Finetooth</del>	<del><i>Carcharhinus isodon</i></del>
<del>Blacknose</del>	<del><i>Carcharhinus acronotus</i></del>
<del>Bonnethead</del>	<del><i>Sphyrna tiburo</i></del>
<del>Tiger</del>	<del><i>Galeocerdo cuvier</i></del>
<del>Blacktip</del>	<del><i>Carcharhinus limbatus</i></del>
<del>Spinner</del>	<del><i>Carcharhinus brevipinna</i></del>
<del>Bull</del>	<del><i>Carcharhinus leucas</i></del>
<del>Lemon</del>	<del><i>Negaprion brevirostris</i></del>
<del>Nurse</del>	<del><i>Ginglymostoma cirratum</i></del>
<del>Scalloped hammerhead</del>	<del><i>Sphyrna lewini</i></del>

Great hammerhead	<i>Sphyrna mokarran</i>
Smooth hammerhead	<i>Sphyrna zygaena</i>
Shortfin mako	<i>Isurus paucus</i>
Porbeagle	<i>Lamna nasus</i>
Common thresher	<i>Alopias vulpinus</i>
Oceanic whitetip	<i>Carcharhinus longimanus</i>
Blue	<i>Prionace glauca</i>

<sup>-1</sup> Smooth dogfish are considered and referred to as smoothhound.

~~(B) Recreationally prohibited species: No person fishing recreationally shall possess, in state waters any shark species that is not permitted to be taken in federal waters, as listed in Table 3.2.~~

~~Table 3.2: Recreationally Prohibited Species List.~~

Sandbar	<i>Carcharhinus plumbeus</i>
Silky	<i>Carcharhinus falciformis</i>
Sand tiger	<i>Carcharias taurus</i>
Bigeye sand tiger	<i>Odontaspis noronhai</i>
Whale	<i>Rhincodon typus</i>
Basking	<i>Cetorhinus maximus</i>
White	<i>Carcharodon carcharias</i>
Dusky	<i>Carcharhinus obscurus</i>
Bignose	<i>Carcharhinus altimus</i>
Galapagos	<i>Carcharhinus galapagensis</i>
Night	<i>Carcharhinus signatus</i>
Reef	<i>Carcharhinus porosus</i>
Narrowtooth	<i>Carcharhinus brachyurus</i>
Caribbean sharpnose	<i>Rhizoprionodon porosus</i>
Smalltail	<i>Carcharhinus porosus</i>
Atlantic angel	<i>Squatina dumeril</i>
Longfin mako	<i>Isurus paucus</i>
Bigeye thresher	<i>Alopias superciliosus</i>
Sharpnose sevengill	<i>Hoptranchias perlo</i>
Bluntnose sixgill	<i>Hexanchus griseus</i>
Bigeye sixgill	<i>Hexanchus nakamurai</i>

~~(C) Recreational landings requirements: No person fishing recreationally shall possess or land sharks that do not have heads, tails, and fins attached naturally to the carcass. Sharks may be gutted and bled by making an incision at the base of the caudal peduncle provided the tail is not removed. No person fishing recreationally shall fillet a shark at sea or otherwise cut a shark into pieces at sea.~~

~~(D) Recreational minimum size limits: No person fishing recreationally shall possess a shark with a fork length less than 54 inches, with the exception of Atlantic sharpnose, blacknose, finetooth, bonnethead, and smoothhound, which~~

~~have no minimum size limit. (Table 3.3)~~

**~~Table 3.3: Recreational Minimum Size Limits~~**

<del>No Minimum Size</del>	<del>Minimum Fork Length of 54 inches (4.5 Feet)</del>		<del>Minimum Fork Length of 78 inches (6.5 Feet)</del>
<del>Smooth Dogfish (Smoothhound) Atlantic sharpnose Finetooth Blacknose Bonnethead</del>	<del>Tiger Blacktip Spinner Bull Lemon Nurse</del>	<del>Shortfin-mako Porbeagle Common thresher Oceanic whitetip Blue</del>	<del>Scalloped hammerhead Smooth hammerhead Great hammerhead</del>

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

~~(F) Recreational shore-fishing possession limits: One shark per person per calendar day, with one additional bonnethead and one additional Atlantic sharpnose per person per calendar day. The possession limit for smoothhound is unlimited.~~

~~(G) Sharks that are transported by vessel are considered “boat assisted” and are regulated under the more restrictive vessel-fishing possession limits in section 3.24.1(H) regardless of how or where they were caught.~~

~~(H) Recreational vessel-fishing possession limits: 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 additional bonnethead and one additional Atlantic sharpnose per vessel per calendar day, or per trip per calendar day, whichever is less. The possession limit for smoothhound is unlimited.~~

### ~~3.24.2 Commercial:~~

~~(A) Commercial species groupings: Coastal Sharks are grouped into eight commercial “species groups” for management purposes, hereafter referred to as: Prohibited Species, Research Species, Smoothhound Sharks, Non-Blacknose Small Coastal Sharks, Blacknose Sharks, Aggregated Large Coastal Sharks, Hammerhead Sharks, and Pelagic Sharks. These groupings apply to all commercial shark fisheries in state waters.~~

~~(1) Properly licensed commercial fishermen may possess any of the species of sharks listed in Table 3.4 below in the Smoothhound Sharks, Non-Blacknose Small Coastal Sharks, Blacknose Sharks, Aggregated Large Coastal Sharks, Hammerhead Sharks, and Pelagic Sharks species groups.~~

~~(B) Fishing year: January 1 through December 31.~~

~~(C) Quota specification:~~

~~(1) Smoothhound sharks: A total annual statewide quota will be established for the State by the ASMFC and/or NOAA Fisheries.~~

~~(2) Quotas for coastal shark commercial species and species groups except Smoothhound sharks will be established annually by the ASMFC and/or NOAA Fisheries. 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.~~

~~(D) Seasons: Seasonal periods for commercial shark fisheries may be established annually either through NOAA Fisheries, ASMFC, or DFW.~~

~~(E) Possession limit: Possession limits will be established annually by NOAA Fisheries, ASMFC, or DFW.~~

~~(1) There are no commercial possession limits for Smoothhound Sharks, Non-Blacknose Small Coastal Sharks, Blacknose Sharks, and Pelagic Species groups.~~

~~(2) Aggregated Large Coastal Sharks and Hammerhead Sharks species groups: Forty five (45) 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.~~

**Table 3.4:** ~~Sharks in the Smoothhound Sharks, Non-Blacknose Small Coastal Sharks, Blacknose Sharks, Aggregated Large Coastal Sharks, Hammerhead Sharks, and Pelagic Sharks Species Groups~~

Common Name	Scientific Name
Smoothhound Sharks	
Smooth Dogfish	<i>Mustelus canis</i>
Florida smoothhound	<i>Mustelus norrisi</i>
Non-Blacknose Small Coastal Sharks	
Atlantic sharpnose	<i>Rhizoprionodon terraenovae</i>
Finetooth	<i>Carcharhinus isodon</i>
Bonnethead	<i>Sphyrna tiburo</i>
Blacknose Sharks	
Blacknose	<i>Carcharhinus acronotus</i>
Aggregated Large Coastal Sharks	
Silky	<i>Carcharhinus falciformis</i>
Tiger	<i>Galeocerdo cuvier</i>
Blacktip	<i>Carcharhinus limbatus</i>
Spinner	<i>Carcharhinus brevipinna</i>
Bull	<i>Carcharhinus leucas</i>
Lemon	<i>Negaprion brevirostris</i>



Nurse	<i>Ginglymostoma cirratum</i>
Hammerhead Sharks	
Scalloped hammerhead	<i>Sphyrna lewini</i>
Great hammerhead	<i>Sphyrna mokarran</i>
Smooth hammerhead	<i>Sphyrna zygaena</i>
Pelagic Sharks	
Shortfin mako	<i>Isurus oxyrinchus</i>
Porbeagle	<i>Lamna nasus</i>
Common thresher	<i>Alopias vulpinus</i>
Oceanic whitetip	<i>Carcharhinus longimanus</i>
Blue	<i>Prionace glauca</i>

~~(F) Prohibition on the possession of sharks in the Prohibited and Research Species Groups: No person shall possess any species of sharks listed in Table 3.5 below in the Prohibited Species and Research Species groups, except in accordance with the provisions of section 3.24.2(G).~~

**Table 3.5:** ~~Sharks in the Prohibited and Research Species Groups~~

Prohibited Species Group	
Common Name	Scientific Name
Sand tiger	<i>Carcharias taurus</i>
Bigeye sandtiger	<i>Odontaspis noronhai</i>
Whale	<i>Rhincodon typus</i>
Basking	<i>Cetorhinus maximus</i>
White	<i>Carcharodon carcharias</i>
Dusky	<i>Carcharhinus obscurus</i>
Bignose	<i>Carcharhinus altimus</i>
Galapagos	<i>Carcharhinus galapagensis</i>
Night	<i>Carcharhinus signatus</i>
Reef	<i>Carcharhinus perezi</i>
Narrowtooth	<i>Carcharhinus brachyurus</i>
Caribbean sharpnose	<i>Rhizoprionodon porosus</i>
Smalltail	<i>Carcharhinus porosus</i>
Atlantic angel	<i>Squatina dumeril</i>
Longfin mako	<i>Isurus paucus</i>
Bigeye thresher	<i>Alopias superciliosus</i>
Sharpnose sevengill	<i>Hoptranchias perlo</i>
Bluntnose sixgill	<i>Hexanchus griseus</i>
Bigeye sixgill	<i>Hexanchus nakamurai</i>
Research Species Group	
Sandbar	<i>Carcharhinus plumbeus</i>

~~(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 the possession of a valid state collector's permit obtained from the DFW. Any person granted a collector's permit shall:~~

- ~~(1) Report to the Director, within thirty (30) days after coming into possession of a shark. For each and every shark collected for research or display, the report to the Director shall include the following information: species identification, length, weight, date and location where caught by latitude and longitude coordinates, and the gear used; and~~
- ~~(2) For each shark taken for live display, the holder of the permit shall also report to the Director annually, by December 31 of each year, for the life of the shark. The annual report shall include all of the information set forth in the original report to the Director pertaining to the sharks, as well as updated information on the length and weight of the shark.~~
- ~~(H) Authorized sale: No person shall sell any shark species to a person or dealer who does not possess a state commercial dealer license issued pursuant to RIGL 20-2.1, and a federal Commercial Shark Dealer Permit issued by the NOAA Fisheries.~~
- ~~(I) Authorized commercial gear: No person shall fish commercially for sharks in state waters by any method other than the following gear types:~~
- ~~(1) Rod & reel;~~
  - ~~(2) Handlines, which are defined as a mainline to which no more than two gangions or hooks are attached. A handline is retrieved by hand, not by mechanical means, and must be attached to, or in contact with, a vessel;~~
  - ~~(3) Small mesh gillnets which are defined as having a stretch mesh size smaller than five (5) inches;~~
  - ~~(4) Large mesh gillnets which are defined as having a stretch mesh size equal to or greater than five (5) inches;~~
  - ~~(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;~~
  - ~~(7) Pound nets/fish traps;~~
  - ~~(8) Weirs.~~
- ~~(J) Bycatch reduction measures: Vessels using shortlines and large-mesh gillnets to catch sharks must abide by the following bycatch regulation measures. Any vessels using shortlines or large-mesh gillnets that do not follow the following bycatch reduction measures are prohibited from possession, landing or~~

~~selling any sharks.~~

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

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

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

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

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

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

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

### **3.25 Skate**

~~3.25.1 Prohibited species: The harvest, landing, or possession of barndoor (*Dipturus laevis*) or thorny (*Amblyraja radiata*) species of skate within the territorial waters of the state of Rhode Island is prohibited.~~

~~3.25.2 Recreational:~~

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

~~3.25.3 Commercial:~~

~~(A) Fishing year: May 1 through April 30 annually.~~

~~(B) State waters skate wing fishery: Shall be defined as skate harvested, possessed, or landed by a vessel:~~

~~(1) Fishing in state waters, not on a previously declared Day At Sea (DAS), and without an active federal open-access skate permit; and~~

~~(2) For food for human consumption with a designated ACCSP Disposition Code 001 = Food.~~

~~(3) Minimum size: No minimum size.~~

~~(4) Possession limit: 18,200 pounds per vessel per week for wings only; or 41,314 pounds per vessel per week for whole skate.~~

~~(D) Skate bait fishery: Shall be defined as skate harvested, possessed, or landed by a vessel:~~

~~(1) Fishing in state waters, not on a previously declared DAS, without an active federal open-access skate permit, and without a federal skate bait Letter of Authorization (LOA); and~~

~~(2) For use as bait with a designated ACCSP Disposition Code 008 = Bait.~~

~~(3) Maximum length: Whole skates must measure less than twenty three (23) inches total length.~~

~~(4) Seasons and possession limits:~~

~~(a) Sub-period I - May 1 through July 31:~~

~~(b) Sub-period II - August 1 through October 31:~~

~~(c) Sub-period III - November 1 through April 30:~~

~~(i) Possession Limit: The starting possession limit for each sub-period will be 25,000 pounds whole skate per vessel per day. When 90 percent of a bait skate TAL allocation in either Sub-period I or II, or when 90 percent of the annual Skate Bait TAL is landed, as determined by NOAA Fisheries, the possession limit will be reduced to the whole weight equivalent of the skate wing possession limit in effect~~

at that time (either 5,902 pounds, 9,307 pounds, or 1,135 pounds whole skate).

### **3.26 American Plaice (Dab)**

#### **3.26.1 Recreational:**

(A) Minimum size: Fourteen inches (14"), whether caught within the jurisdiction of this State or otherwise.

(B) Fishing year: The recreational American plaice fishery shall operate on a May 1 through April 30 fishing year.

(C) Possession limit:

(1) There is no recreational possession limit for American plaice provided the vessel is fishing in state waters and does not have a federal permit authorizing the harvest of American plaice.

(2) Vessels in possession of a federal permit authorizing the recreational harvest of American plaice in federal waters may harvest American plaice in state waters in the amount equal to the federal regulations.

#### **3.26.2 Commercial:**

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

(B) Fishing year: The commercial American plaice fishery shall operate on a May 1 through April 30 fishing year.

(C) Possession limit:

(1) There is no commercial possession limit for American plaice provided the vessel is fishing in state waters and does not have a federal permit authorizing the harvest of American plaice.

(2) Vessels in possession of a federal permit authorizing the commercial harvest of American plaice in federal waters may harvest American plaice in state waters in the amount equal to the federal regulations.

### **3.27 Haddock**

#### **3.27.1 Recreational:**

(A) Minimum size: Eighteen inches (18"), whether caught within the jurisdiction

~~of this State or otherwise.~~

~~(B) Fishing year: The recreational haddock fishery shall operate on a May 1 through April 30 fishing year.~~

~~(C) Possession limit:~~

~~(1) There is no recreational possession limit for haddock provided the vessel is fishing in state waters and does not have a federal permit authorizing the harvest of haddock.~~

~~(2) Vessels in possession of a federal permit authorizing the recreational harvest of haddock in federal waters may harvest haddock in state waters in the amount equal to the federal regulations.~~

### ~~3.27.2 Commercial:~~

~~(A) Minimum size: Sixteen inches (16"), whether caught within the jurisdiction of this State or otherwise.~~

~~(B) Fishing year: The commercial haddock fishery shall operate on a May 1 through April 30 fishing year.~~

~~(C) Possession limit:~~

~~(1) There is no commercial possession limit for haddock provided the vessel is fishing in state waters and does not have a federal permit authorizing the harvest of haddock.~~

~~(2) Vessels in possession of a federal permit authorizing the commercial harvest of haddock in federal waters may harvest haddock in state waters in the amount equal to the federal regulations.~~

## ~~3.28 Pollock~~

### ~~3.28.1 Recreational:~~

~~(A) Minimum size: Nineteen inches (19"), whether caught within the jurisdiction of this State or otherwise.~~

~~(B) Fishing year: The recreational Pollock fishery shall operate on a May 1 through April 30 fishing year.~~

~~(C) Possession limit:~~

~~(1) There is no recreational possession limit for pollock provided the vessel is~~

~~fishing in state waters and does not have a federal permit authorizing the harvest of pollock.~~

~~(2) Vessels in possession of a federal permit authorizing the recreational harvest of pollock in federal waters may harvest pollock in state waters in the amount equal to the federal regulations.~~

### 3.28.2 Commercial:

~~(A) Minimum size: Nineteen inches (19"), whether caught within the jurisdiction of this State or otherwise.~~

~~(B) Fishing year: The commercial pollock fishery shall operate on a May 1 through April 30 fishing year.~~

~~(C) Possession limit:~~

~~(1) There is no commercial possession limit for pollock provided the vessel is fishing in state waters and does not have a federal permit authorizing the harvest of pollock.~~

~~(2) Vessels in possession of a federal permit authorizing the commercial harvest of pollock in federal waters may harvest pollock in state waters in the amount equal to the federal regulations.~~

## 3.29 Witch Flounder (Grey Sole)

### 3.29.1 Recreational:

~~(A) Minimum size: Fourteen inches (14"), whether caught within the jurisdiction of this State or otherwise.~~

~~(B) Fishing year: The recreational Witch flounder fishery shall operate on a May 1 through April 30 fishing year.~~

~~(C) Possession Limit:~~

~~(1) There is no recreational possession limit for Witch flounder provided the vessel is fishing in state waters and does not have a federal permit authorizing the harvest of Witch flounder.~~

~~(2) Vessels in possession of a federal permit authorizing the recreational harvest of Witch flounder in federal waters may harvest Witch flounder in state waters in the amount equal to the federal regulations.~~

### 3.29.2 Commercial:

~~(A) Minimum size: Thirteen inches (13"), whether caught within the jurisdiction of this State or otherwise.~~

~~(B) Fishing year: The commercial Witch flounder fishery shall operate on a May 1 through April 30 fishing year.~~

~~(C) Possession limit:~~

~~(1) There is no commercial possession limit for Witch flounder provided the vessel is fishing in state waters and does not have a federal permit authorizing the harvest of Witch flounder.~~

~~(2) Vessels in possession of a federal permit authorizing the commercial harvest of Witch flounder in federal waters may harvest Witch flounder in state waters in the amount equal to the federal regulations.~~

### **3.30 Yellowtail Flounder**

#### **3.30.1 Recreational:**

~~(A) Minimum size: Thirteen inches (13"), whether caught within the jurisdiction of this State or otherwise.~~

~~(B) Fishing year: The recreational Yellowtail flounder fishery shall operate on a May 1 through April 30 fishing year.~~

~~(C) Possession Limit:~~

~~(1) There is no recreational possession limit for Yellowtail flounder provided the vessel is fishing in state waters and does not have a federal permit authorizing the harvest of Yellowtail flounder.~~

~~(2) Vessels in possession of a federal permit authorizing the recreational harvest of Yellowtail flounder in federal waters may harvest Yellowtail flounder in state waters in the amount equal to the federal regulations.~~

#### **3.30.2 Commercial:**

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

~~(B) Fishing year: The commercial Yellowtail flounder fishery shall operate on a May 1 through April 30 fishing year.~~

~~(C) Possession Limit:~~



~~(1) There is no commercial possession limit for Yellowtail flounder provided the vessel is fishing in state waters and does not have a federal permit authorizing the harvest of Yellowtail flounder.~~

~~(2) Vessels in possession of a federal permit authorizing the commercial harvest of Yellowtail flounder in federal waters may harvest Yellowtail flounder in state waters in the amount equal to the federal regulations.~~

### **3.31 Violations for non-compliance**

~~3.31.1 If the DFW and/or the Chief of the Division of Law Enforcement determine that there has been non-compliance with the provisions of these regulations or a permit agreement, the owner and/or operator of the permitted vessel shall be advised of such determination and the specific grounds therefore in writing by delivery of same by certified mail or by personal service upon the owner or operator in compliance with the requirements set out in Rule 4 of the Rhode Island Superior Court Rules of Civil Procedure. The determination shall specifically include notice that an opportunity for an impartial hearing is available before the Administrative Adjudication Division pursuant to R.I. Gen. Laws Chapter 42-17.7 relative to either or both the finding that sufficient evidence exists of non-compliance with the provisions of these regulations or the permit agreement as well as the termination of the permit and or the imposition of a penalty pursuant to RIGL 20-1-16 as well as the ineligibility to reapply for a permit for the subject vessel for the remainder of the Summer sub-period.~~

### **3.32 Penalties**

~~3.32.1 Judicially imposed penalty for violations: Unless otherwise specifically provided, the violation of any law or rule or regulation relating to wild animals, wild birds, lobsters and fish, marine, freshwater and anadromous fisheries and shellfisheries shall be a misdemeanor, punishable by a fine of not more than five hundred dollars (\$500) or imprisonment for up to ninety (90) days, or both (RIGL §20-1-16)~~

~~3.32.2 Additionally, a person may be subject to the imposition of a administrative penalty pursuant to DEM's "*Rules and Regulations Governing the Suspension/Revocation of Commercial Marine Fisheries, Shellfish Buyer, Lobster Dealer, Finfish Dealer, and Multi-purpose Dealer, licenses issued pursuant to Title 20 of RIGL "Fish and Wildlife".*~~

### **3.33 Appeals**

~~3.33.1 Denial of a license or permit: Persons denied a license or permit may request an appeal as provided by RIGL Chapter 42-17.7 and pursuant to DEM's~~

~~*“Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters”*~~

~~3.33.2 Enforcement Action: Any person affected by a decision of the Director for an enforcement action pursuant to these regulations may file and appeal in accordance with RIGL Chapter 42-17.7 and DEM’s Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters.~~

**EFFECTIVE DATE**

The foregoing rules and regulations, after due notice, are hereby adopted in accordance with the provisions of Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

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Janet L. Coit, Director  
Department of Environmental Management

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Notice Given: 05/12/2017  
Public Hearing: 06/12/2017  
Filing date: 08/09/2017  
Effective date: 08/29/2017  
ERLID # 8614



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

BUREAU OF NATURAL RESOURCES  
FISH AND WILDLIFE  
&  
LAW ENFORCEMENT



RHODE ISLAND MARINE FISHERIES  
REGULATIONS

Part XII  
Striped Bass

March 23, 2017

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

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## **PURPOSE**

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

## **AUTHORITY**

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

## **APPLICATION**

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

## **DEFINITIONS**

See Rhode Island Marine Regulations, *Part I - Definitions*.

## **SEVERABILITY**

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

## **SUPERSEDED RULES AND REGULATIONS**

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

## **REGULATIONS**

### **12.1 Recreational:**

**12.1.1 Minimum size:** Twenty-eight inches (28") in total length, whether caught within the jurisdiction of this State, or otherwise.

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

**12.1.3 Possession limit:** One (1) fish per person per day, whether caught within the jurisdiction of Rhode Island or otherwise.

#### **(A) Possession limit compliance aboard vessels:**

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

~~(2) Multiple licensed recreational fishermen fishing from a single vessel: Possession limit compliance aboard vessels with multiple licensed fishermen will be determined by dividing the number of fish by the number of licensed fishermen on board said vessel.~~

## ~~12.2 Commercial — General Category:~~

~~12.2.1 Minimum size: Thirty four (34) inches or greater in total length, whether caught within the jurisdiction of this state or otherwise.~~

~~12.2.2 Seasons, allocations, and possession limits: During a single calendar year, the general category Striped bass fishery shall be allowed to harvest not more than sixty-one percent (61%) of the annual Rhode Island commercial quota.~~

~~(A) January 1 — May 27: Closed.~~

~~(B) May 28 — August 31:~~

~~(1) Allocation: Seventy percent (70%) of the general category quota will be available in this sub-period.~~

~~(2) Possession limit: Five (5) fish per person per calendar day, or if fishing from a vessel, five (5) fish per vessel per calendar day.~~

~~(3) The fishery will be closed in each calendar week from 12:00 AM Friday until 11:59 PM Saturday during this sub-period. There will be no commercial possession or sale of Striped bass on these days for general category commercial fishermen.~~

~~(4) The sub-period will close once seventy percent (70%) of the general category quota is projected to be harvested if prior to August 31.~~

~~(C) September 10 — December 31:~~

~~(1) Allocation: Thirty percent (30%) of the general category quota will be available in this sub-period.~~

~~(2) Possession limit: Five (5) fish per person per calendar day, or if fishing from a vessel, five (5) fish per vessel per calendar day.~~

~~(3) The fishery will be closed in each calendar week from 12:00 AM Friday until 11:59 PM Saturday during this sub-period. There will be no commercial possession or sale of Striped bass on these days for general category commercial fishermen.~~

~~(4) The sub-period will close when 30% of the general category quota is~~

~~projected to be harvested.~~

~~(5) If DFW determines that the quota will be exceeded or will not be met before the end of the fall season, DFW may adjust that catch rate accordingly on or after September 15 annually.~~

~~12.3 If the Division estimates that the Floating Fish Trap sector will not fully utilize its allocation prior to the end of the season, beginning on October 15, the Division may move the Floating Fish Trap allocation into the general category fishery. The Division will consult with the Floating Fish Trap Licensees or their designee prior to enacting any allocation roll over, and will maintain written correspondence in the form of a letter on file as proof of said consultation.~~

#### ~~12.4 Commercial – Floating Fish Trap:~~

~~12.4.1 Floating fish trap operators must be permitted pursuant to RIGL §20-5-1, and abide by all conditions as specified in RIGL Chapter 20-5 and RIMFR Part XIV. Application shall be made to the DFW on forms prescribed by the Director.~~

~~12.4.2 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.~~

~~12.4.3 Minimum size: Twenty-six inches (26") in total length.~~

~~12.4.4 Season: April 1 through December 31.~~

~~12.4.5 Possession limit: Unlimited. Once seventy percent (70%) of the seasonal allocation is projected to be harvested the possession limit shall be 200 pounds per floating fish trap licensee per calendar day.~~

~~12.4.6 When DFW has determined that the annual quota allocated to floating fish traps has been reached, the fishery will terminate.~~

~~12.4.7 Reporting: All floating fish trap operators shall keep daily records of striped bass landings and report landings to SAFIS every Monday, Wednesday, and Friday, of every week that the trap is in operation.~~

~~12.4.8 If the floating fish trap operators are found to be out of compliance with the reporting requirements, the operators will be notified, and default to following program~~

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

~~12.5 Gillnet Prohibition for Striped Bass: No person shall take or possess any striped bass while gillnetting, or while hauling a gillnet.~~

~~12.6 Striped Bass 50-yard Closure Zone for Gill Nets: It shall be illegal to set, haul, or maintain a gill net within 50 yards of the Rhode Island coastline (mean high tide line) in the following areas and during the following seasons:~~

~~12.6.1 Areas: From Monahan's Dock breakwater (State Pier #5) to the southernmost tip of Matunuck Pt. (Carpenter's Bar); in Narragansett Bay, Mt. Hope Bay, and Sakonnet River (as described in Part 13.4-1), and from the southern tip of Sachuest Point to the juncture of Second Beach and Sachuest Point, and from the southwest corner on Price's Neck to Castle Hill Light House.~~

~~12.6.2 Season Closure: All gill netting is prohibited within 50 yards of the Rhode Island coastline (mean high water line) during the period October 15–December 31 annually.~~

~~12.7 Hybrid Striped Bass Cultured Striped Bass:~~

~~12.7.1 Aquaculture-reared striped bass or hybrid striped bass brought into Rhode Island for sale or resale, which is wholly or partially processed, except for cultured striped bass or hybrid Striped bass from a fish farm or processor which are a fully processed and packaged product whether fresh or frozen, shall have affixed to it a tag identifying it as an aquaculture product.~~

~~12.7.2 Packages and containers containing aquaculture products shall be tagged or labeled with a uniform series of 14 digit numbers and letters as shown in the example below:~~

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

~~12.7.3 Each fish or fish product shall have affixed to it a tag bearing the same information listed in section 12.8.2.~~

~~12.7.4 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.~~

~~12.7.5 Fish shipped in the round and filleted by the seller, shall have the tag removed and wrapped in with the fillets when sold.~~

~~12.7.6 The consignee of each subsequent sale shall retain a copy of the bill of~~



~~lading or similar accountable document for 1 year, and make it available to the Department upon request.~~

~~12.8 Commercial Striped Bass Tags: Each individual Striped bass shall be immediately marked with tags available from DFW. No Striped bass may be sold unless it has been properly identified with such tag. DFW may designate tagging agents as appropriate. All designated tagging agents shall keep and maintain the required forms and reports specified by DFW. All tag reports and unused tags must be returned to DFW by January 1<sup>st</sup> 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.~~

~~12.9 Any person recreationally harvesting a striped bass thirty-four (34) inches or larger shall at the time of harvest have the right pectoral fin removed at a point as close to the body of the fish as possible.~~

~~12.10 Violations for Non-compliance:~~

~~12.10.1 If the DFW and/or the Chief of the Division of Law Enforcement determine that there has been non-compliance with the provisions of these regulations or the permit agreement, the owner and/or operator of the permitted vessel shall be advised of such determination and the specific grounds therefore in writing by delivery of same by certified mail or by personal service upon the owner or operator in compliance with the requirements set out in Rule 4 of the Rhode Island Superior Court Rules of Civil Procedure. The determination shall specifically include notice that an opportunity for an impartial hearing is available before the Administrative Adjudication Division pursuant to R.I. Gen. Laws Chapter 42-17.7 relative to either or both the finding that sufficient evidence exists of non-compliance with the provisions of these regulations or the permit agreement as well as the termination of the permit and or the imposition of a penalty pursuant to RIGL 20-1-16.~~

~~12.11 Penalties:~~

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

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

~~12.12 Appeals:~~

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

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

### **EFFECTIVE DATE**

~~The foregoing rules and regulations, after due notice, are hereby adopted and filed with the Secretary of State in accordance with the provisions of Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.~~

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Janet L. Coit  
Director, Department of Environmental Management

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Notice Given: 01/13/2017  
Public Hearing: 02/13/2017  
Filing date: 03/23/2017  
Effective date: 04/12/2017  
ERLID#: 8474



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

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

~~Rhode Island Marine Fisheries Regulations~~



~~Part XVI  
Menhaden~~

~~March 23, 2017~~

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

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## **PURPOSE**

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

## **AUTHORITY**

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

## **APPLICATION**

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

## **DEFINITIONS**

See Rhode Island Marine Fisheries Regulations, *Part I - Definitions*.

## **SEVERABILITY**

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

## **SUPERSEDED RULES AND REGULATIONS**

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

## **REGULATIONS**

### **16.1 Commercial:**

**16.1.1 Menhaden Management Area:** Narragansett Bay in its entirety is designated a Menhaden Management Area pursuant to RIGL 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). (RIGL 20-4.1-1)

#### **(A) Opening and closure of fishery:**

##### **(1) Fishery opening – possession limits:**

**(a) Biomass Floor:** On an annual basis in the spring, the DFW shall conduct regular estimates of the standing stock of menhaden present in

~~the Management Area utilizing approved scientific monitoring methods. On the basis of those estimates, the Division of Fish & Wildlife (DFW) shall open the commercial fishery at an initial possession limit of 120,000 pounds per vessel per calendar day when the estimated weekly standing stock reaches 2,000,000 pounds.~~

~~(b) The possession limits may be modified by the DFW on the basis of the estimated weekly standing stock of menhaden in the Management Area derived via approved scientific monitoring methods.~~

~~(c) The possession or taking of menhaden is prohibited on any Saturday, Sunday, official state holiday, or prior to sunrise or following sunset, unless using a non-directed gear type for menhaden. Non-directed gear shall be defined as cast nets, floating fish traps, and rod and reel.~~

~~(2) Fishery closure:~~

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

~~(b) If at any time the stock estimate drops below 1,500,000 pounds, the DFW shall close the commercial fishery until further notice.~~

~~(c) Non-directed gear possession limit allowance: Upon closure of the fishery, the possession limit is 6,000 pounds per vessel per day for vessels utilizing non-directed gear.~~

~~(B) Purse seine restrictions: The use of purse seines in the Management Area shall be permitted only in accordance with the following terms and conditions:~~

~~(1) All nets shall be less than 100 fathoms (600 feet) in length and less than 15 fathoms (90 feet) in depth.~~

~~(2) All nets shall be marked with fluorescent-colored float buoys, distinguishable from the other float buoys on the net, at intervals of 50 feet.~~

~~(3) Annually, prior to use, all nets shall be inspected and certified as being in conformance with the provisions of this section by the DEM Division of Law Enforcement (DLE). Once inspected and certified, a net may be used throughout the duration of the calendar year in which it was inspected, provided that it is not altered with regard to any of the provisions of this section. Any net that is altered with regard to any of the provisions of this section must be re-inspected and recertified prior to use.~~

~~(C) Permanently closed areas (waters) to purse seining for menhaden:~~

~~(1) Providence River: All waters north of a straight line extending from Rocky Point to Conimicut Light to Nayatt Point.~~

~~(2) Greenwich Bay: All waters in Greenwich Bay west of a line from the flag pole on Warwick Point to Sandy Point.~~

~~(3) Harvest of menhaden in permanently closed areas: No person harvesting menhaden shall possess more than 200 menhaden per vessel per calendar day unless using gear types other than purse seine.~~

~~(D) Commercial vessel restrictions: A fishing vessel engaged in the commercial menhaden fishery may not have a useable fish storage capacity greater than 120,000 pounds. Prior to the commencement of fishing, for any vessel not previously certified through this process, each vessel must be inspected by a certified marine surveyor and assessed with regard to its fish storage capacity. Such certification must be kept aboard the vessel at all times. Vessels must either be certified as having a useable storage capacity of 120,000 pounds or less, or for vessels with a fish storage capacity greater than 120,000 pounds the excess capacity is rendered unusable in accordance with the specifications set forth in the assessment.~~

~~(E) Fall opening within the Menhaden Management Area:~~

~~(1) Beginning September 1 annually, the area south of a line from the Jamestown and Newport Bridges, and the area south of a line 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 as long as the states quota has not been exhausted or if the Episodic Event Set Aside Program, as described in this section, has been enacted in RI.~~

~~(2) Possession limit: 25,000 pounds per vessel per day.~~

~~(F) Reporting requirements:~~

~~(1) Any fisher intending to engage in the commercial menhaden fishery in the Management Area shall notify the DLE at (401) 222-3070 prior to taking or possessing menhaden. At the time that a fisher advises the DLE of his/her intent to harvest menhaden, the DLE shall notify said fisher of any modification which may have been established in the possession limit for menhaden.~~

~~(2) Each person engaging in the commercial menhaden fishery shall contact the DFW 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.~~

~~16.1.2 Landing of menhaden in RI under State Quota Program: An annual statewide quota for menhaden is established annually for the State by the Atlantic States Marine Fisheries Commission (ASMFC). The quota shall pertain solely to landings of menhaden in RI and shall not pertain to the possession of menhaden in RI waters prior to landing.~~

~~(A) The landing limit is unlimited until the quota has been reached, as determined by the DFW.~~

~~(B) Once the quota has been reached, the fishery will close for directed fisheries, including but not limited to purse seine operations, and a bycatch limit will be in effect. The bycatch limit will be:~~

~~(1) Non-directed fisheries: 6,000 pounds per vessel per day.~~

~~(2) Pound nets, fish traps, anchored/staked gill nets, and fyke nets: If two commercially licensed individuals are harvesting from the same vessel, two (2) daily possession limits (12,000 pounds per vessel per day).~~

~~(C) 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 section 16.1.1, unless using non-directed gear.~~

~~16.1.4 Episodic Event Set Aside Program:~~

~~(A) After the State's quota has been reached, if RI is approved to participate in the Episodic Event Set Aside Program for Menhaden, as established by the ASMFC, the landing limit for menhaden will be 120,000 pounds per vessel per day for vessels associated with directed fisheries for Menhaden, until the Set Aside quota has been exhausted, as determined by the ASMFC and/or the DFW, at which time the program will end and the directed fishery will close. Vessels that target and land menhaden in RI under this program must harvest only from RI waters and, if operating in the Management Area, must adhere to all of the provisions as specified in these regulations.~~

~~(B) Reporting Requirements:~~

~~(1) Any person intending to engage in the commercial menhaden fishery under the Episodic Event Set Aside Program must 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 to the possession limit for menhaden that is applicable to operations conducted in the Management Area.~~

~~(2) Each person engaged in the commercial menhaden fishery shall contact the DFW at (401) 423-1940 at the end of each daily trip or within four hours~~



~~thereof to report the amount of menhaden landed by the fisher in pounds. These menhaden-specific reporting requirements are in addition to all other existing commercial fishing reporting requirements as set forth in the RI Marine Fisheries Regulations (RIMFR).~~

~~(C) Vessels not associated with directed fisheries for menhaden may continue to harvest and land in RI up to 6,000 pounds per vessel per day as bycatch. Such vessels are not subject to the provisions of sub-sections 16.1.1(A)(1)(b) & (c), but are subject to the provisions of section 16.1.1 with regard to operations conducted in the Management Area, and are subject to all existing commercial fishing reporting requirements as set forth in the RIMFR.~~

~~(D) The Episodic Event Set Aside Program will end on November 1 annually or when the set aside quota has been harvested, whichever first occurs.~~

~~16.1.5 No person may transfer or attempt to transfer at sea, from one vessel to another, any finfish identified in these regulations.~~

~~16.1.6 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.~~

#### ~~16.2 Recreational:~~

~~16.2.1 Minimum size: No minimum size.~~

~~16.2.2 Season: Open year round.~~

~~16.2.3 Possession limit:~~

~~(A) Less than or equal to four (4) inches in total length: Unlimited.~~

~~(B) Greater than four (4) inches in total length: Two hundred (200) fish/person/day.~~

#### ~~16.3 Violations for Non-compliance:~~

~~16.3.1 If the DFW and/or the Chief of the Division of Law Enforcement determine that there has been non-compliance with the provisions of these regulations or a permit agreement, the owner and/or operator of the permitted vessel shall be advised of such determination and the specific grounds therefore in writing by delivery of same by certified mail or by personal service upon the owner or operator in compliance with the requirements set out in Rule 4 of the Rhode Island Superior Court Rules of Civil Procedure. The determination shall specifically include notice that an opportunity for an impartial hearing is available before the Administrative~~

~~Adjudication Division pursuant to R.I. Gen. Laws Chapter 42-17.7 relative to either or both the finding that sufficient evidence exists of non-compliance with the provisions of these regulations or the permit agreement as well as the termination of the permit and or the imposition of a penalty pursuant to RIGL 20-1-16.~~

#### 16.4 Penalties:

~~16.4.1 Judicially imposed penalty for violations: Unless otherwise specifically provided, the violation of any law or rule or regulation relating to wild animals, wild birds, lobsters and fish, marine, freshwater and anadromous fisheries and shellfisheries shall be a misdemeanor, punishable by a fine of not more than five hundred dollars (\$500) or imprisonment for up to ninety (90) days, or both (RIGL §20-1-16)~~

~~16.4.2 Additionally, a person may be subject to the imposition of a administrative penalty pursuant to DEM's "Rules and Regulations Governing the Suspension/Revocation of Commercial Marine Fisheries, Shellfish Buyer, Lobster Dealer, Finfish Dealer, and Multi-purpose Dealer, licenses issued pursuant to Title 20 of RIGL "Fish and Wildlife".~~

#### 16.5 Appeals:

~~16.5.1 Denial of a license or permit: Persons denied a license or permit may request an appeal as provided by RIGL Chapter 42-17.7 and pursuant to DEM's "Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters"~~

~~16.5.2 Enforcement Action: Any person affected by a decision of the Director for an enforcement action pursuant to these regulations may file and appeal in accordance with RIGL Chapter 42-17.7 and DEM's Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters.~~

### **EFFECTIVE DATE**

~~The foregoing rules and regulations, after due notice, are hereby adopted and filed with the Secretary of State in accordance with the provisions of Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35, Administrative Procedures, of the Rhode Island General Laws of 1956, as amended.~~

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Janet L. Coit, Director  
Department of Environmental Management

~~Notice Given: 01/13/2017  
Public Hearing: 02/13/2017  
Filing date: 03/23/2017  
Effective date: 04/12/2017  
ERLID# 8472~~

**250-RICR-90-00-3**

## **TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

### **CHAPTER 90 – MARINE FISHERIES**

#### **SUBCHAPTER 00 – N/A**

##### **PART 3 – Finfish**

### **3.1 Purpose**

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

### **3.2 Authority**

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

### **3.3 Application**

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

### **3.4 Definitions**

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

### **3.5 Severability**

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

### **3.6 Superseded Rules and Regulations**

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

## **3.7 Black Sea Bass**

### **3.7.1 Recreational**

- A. Minimum size: Fifteen inches (15"). Minimum size measurement for black sea bass does not include the tendril located on the caudal (tail) fin.
- B. Seasons and possession limits:
  - 1. January 1 through May 24: Closed.
  - 2. May 25 through August 31: Three (3) fish per person per calendar day, whether caught within the jurisdiction of this State or otherwise.
  - 3. September 1 through September 21: Seven (7) fish per person per calendar day, whether caught within the jurisdiction of this State or otherwise.
  - 4. September 22 through October 21: Closed.
  - 5. October 22 through December 31: Seven (7) fish per person per calendar day, whether caught within the jurisdiction of this State or otherwise.

### **3.7.2 Commercial**

- A. Minimum size: Eleven (11) inches, whether caught within the jurisdiction of this State or otherwise.
- B. Seasons, allocations, and possession limits: A state quota for Black sea bass will be established annually and shall be the most recent amount allocated to the State of Rhode Island by the ASMFC and/or the Secretary of the NOAA Fisheries. The quota shall be available during the following sub-periods:
  - 1. January 1 through April 30:
    - a. Allocation: Twenty-five percent (25%) of the quota.
    - b. Possession limit: 750 pounds per vessel per week.
  - 2. May 1 through June 30:
    - a. Allocation: Twenty-five percent (25%) of the quota.
    - b. Possession limit: Fifty (50) pounds per vessel per calendar day. The commercial fishery is closed on Friday of each week during this sub-period.
  - 3. July 1 through July 31:

- a. Allocation: Nineteen and a half percent (19.5%) of the quota.
  - b. Possession limit: Fifty (50) pounds per vessel per calendar day. The commercial fishery is closed on Friday of each week during this sub-period.
4. August 1 through September 14: Closed.
5. September 15 through October 31:
  - a. Allocation: Nineteen and a half percent (19.5%).
  - b. Possession limit: Fifty (50) pounds per vessel per calendar day. The commercial fishery is closed on Friday of each week during this sub-period.
6. November 1 through December 31:
  - a. Allocation: Eleven percent (11%).
  - b. Possession limit: One hundred (100) pounds per vessel per calendar day.

C. Black sea bass pot construction

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

## **3.8 Scup**

### **3.8.1 Recreational**

- A. Minimum size: Ten inches (10").
- B. Season: May 1 through December 31.
- C. Possession limit: Thirty (30) Scup per person per calendar day, whether caught within the jurisdiction of this State or otherwise.
- D. Special shore-fishing provision:
  - 1. Locations: India Point Park, Providence; Conimicut Park, Warwick; Rocky Point, Warwick; Stone Bridge, Tiverton; East and West Walls (Harbor of Refuge), Narragansett; Fort Wetherill, Jamestown; and Fort Adams, Newport:
  - 2. Minimum size: Nine inches (9").
  - 3. Season: May 1 through December 31.
  - 4. Possession limit: Thirty (30) Scup per person per calendar day.
- E. Licensed Party and Charter vessels seasons and possession limit:
  - 1. May 1 through August 31: Thirty (30) Scup per person per calendar day, whether caught within the jurisdiction of this State or otherwise.
  - 2. September 1 through October 31: Forty-five (45) scup per person per calendar day whether caught within the jurisdiction of this State or otherwise.
  - 3. November 1 through December 31: Thirty (30) Scup per person per calendar day whether caught within the jurisdiction of this State or otherwise.

### **3.8.2 Commercial**

- A. Minimum size: Nine (9) inches.
- B. Seasons, quotas and possession limit: A total allowable harvest of Scup will be established annually, and shall be that amount allocated to the State of Rhode Island by the Regional Fishery Management Councils and/or the ASMFC.
  - 1. January 1 through April 30 (Winter I): 50,000 pounds per vessel per calendar day, decreasing to 1,000 pounds per vessel per calendar day once 80% of the federal Winter I coastwide Scup quota has been harvested as determined by NOAA Fisheries.

2. May 1 through October 31 (Summer - Fall): The State quota for scup will be divided as follows:
  - a. General Category (gear types other than floating fish traps): Forty percent (40%) of the Summer- Fall sub-period quota will be allocated to all gear types except floating fish traps and allocated as follows:
    - (1) May 1 through the Saturday before the third Sunday in September (Summer):
      - (AA) Allocation: Two-thirds (2/3) of the General Category quota.
      - (BB) Possession limit: 10,000 pounds per vessel per calendar week. The calendar week period shall begin on Sunday at 12:00 AM and ends on the following Saturday at 11:59 PM. When the Summer sub-period quota has been harvested as determined by the DFW, the fishery will close. The fishery will re-open on the third Sunday in September.
    - (2) Third Sunday in September through October 31 (Fall):
      - (AA) Allocation: One-third (1/3) of the General Category quota.
      - (BB) Possession limit: 10,000 pounds per vessel per calendar week. The calendar week period shall begin on Sunday at 12:00 AM and ends on the following Saturday at 11:59 PM. When the Fall sub-period quota has been harvested as determined by the DFW, the fishery will close. The fishery will re-open at the beginning of the Winter II sub-period.
  - b. Floating fish trap: Sixty percent (60%) of the Summer-Fall sub-period quota will be allocated to the floating fish trap sector.
    - (1) During those years in which the federal Winter I coastwide Scup quota is completely exhausted prior to April 15, the floating fish trap quota will be available on April 15. During those years in which the federal Winter I coastwide Scup quota is not completely exhausted prior to April 15, the floating fish trap quota will be available on May 1.
    - (2) If the DFW estimates that the Floating Fish Trap sector will not fully utilize its scup allocation prior to the end of the Summer-Fall sub-period, beginning on June 15, the DFW



has the authority to move the designated Floating Fish Trap sector allocation in to the general category fishery as set forth in this part. The DFW will consult with the Floating Fish Trap operators or their designee prior to enacting any allocation roll over, and will maintain written correspondence in the form of a letter on file as proof of said consultation.

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

5,000 pounds per fish trap licensee per calendar day until one hundred percent (100%) of the quota has been harvested

(CC) Floating Fish trap operator: For purposes of this section, fish trap operator shall refer to a resident person or resident corporation currently issued a permit pursuant to RIGL §20-5-2. The maximum possession limit per floating fish trap licensee shall be the amount set forth above regardless of the number of authorized trap locations, the number of vessels or the number of licensed fishermen who may be working for or may enter into contract with the floating fish trap 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. November 1 – December 31 (Winter II): 2,000 pounds per vessel per calendar day, decreasing to 500 pounds per vessel per calendar day once 70% of the federal Winter II coastwide Scup quota has been harvested as determined by NOAA Fisheries.

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

D. Scup pots:

1. Pot limits: Each person utilizing pots in the scup fishery shall be permitted to fish up to fifty (50) pots regardless of the number of licenses on board the vessel.
2. Pot construction - escape vents: All scup pots must be constructed with escape openings. Openings may be circular, rectangular, or square, and must be a minimum of 3.1" diameter, 2-1/4" X 5-3/4" if rectangular or may be constructed of 2-1/4" X 2-1/4" wire mesh. Escape vents must be attached with biodegradable fasteners which allow vents or panels to fall away from the trap after loss.

3. The hinges or fasteners of one panel or door must be made of one of the following degradable materials:
  - a. Un-treated hemp, jute, or cotton string 3/16" (4.8mm) or smaller;
  - b. Magnesium alloy, timed float releases (pop-up devices) or similar magnesium alloy fasteners;
  - c. Un-galvanized or uncoated iron wire of .094" (2.4mm) or smaller; or
  - d. If "bungee" cord or other elasticized material is used to fasten the top, it must be secured to the trap with a degradable hog ring.
4. Buoy Lines: The use of floating line within eight (8) feet of the surface of the water is prohibited on all scup pots, traps, or similar contrivances.

### **3.9 Summer Flounder**

#### **3.9.1 Recreational**

- A. Minimum size: Nineteen inches (19").
- B. Season: May 1 through December 31.
- C. Possession limit: Four (4) fish, whether caught within the jurisdiction of this state or otherwise.

#### **3.9.2 Commercial**

- A. Minimum size: Fourteen (14) inches.
- B. Seasons, allocations, and possession limits: A total annual statewide quota for Summer flounder will be established for the State by the ASMFC and/or NOAA Fisheries.
  1. January 1 through April 30 (Winter):
    - a. Target allocation: 54% of the annual quota.
    - b. Possession limit between January 1 and the start of the Winter sub-period of the Aggregate Landing Program, annually:
      - (1) Vessels that possess a valid RI Summer Flounder Exemption Certificate (Exemption Certificate): Two hundred (200) pounds per vessel per calendar day.
      - (2) Vessels that do not possess a valid Exemption Certificate: Two hundred (200) pounds per vessel per calendar day.

- c. Possession limit during the Winter sub-period of the Aggregate Landing Program, annually:
  - (1) Vessels not permitted in the Aggregate Landing Program but which possess a valid Exemption Certificate: Two hundred (200) pounds per vessel per calendar day. When 90% of the Winter sub-period quota has been harvested as determined by the DFW, the possession limit per vessel shall be one hundred (100) pounds per calendar day.
  - (2) Vessels that do not possess a valid Exemption Certificate: Two hundred (200) pounds per vessel per calendar day. When 90% of the Winter sub-period quota has been harvested as determined by the DFW, the possession limit per vessel shall be one hundred (100) pounds per calendar day.
  - (3) Aggregate Landing Program: One thousand three hundred (1,300) pounds per vessel per bi-weekly period. The bi-weekly periods shall be specified in the Aggregate Landing Permit. When 90% of the Winter sub-period quota has been harvested as determined by the DFW, the Aggregate Landing Program will terminate and the possession limit shall be one hundred (100) pounds per vessel per calendar day.

2. May 1 - September 15 (Summer):

- a. Target allocation: 35% of the annual quota.
- b. Possession limit between May 1 and May 31, annually:
  - (1) Vessels that possess a valid Exemption Certificate: Fifty (50) pounds per vessel per calendar day. The fishery is closed Friday, Saturday, and Sunday each week.
  - (2) Vessels that do not possess a valid Exemption Certificate: Fifty (50) pounds per vessel per calendar day. The fishery is closed Friday, Saturday, and Sunday each week.
- c. Possession limit during the Summer sub-period of the Aggregate Landing Program, annually:
  - (1) Vessels not permitted in the Aggregate Landing Program, but which possess a valid Exemption Certificate: Fifty (50) pounds per vessel per calendar day. The fishery is closed Friday, Saturday, and Sunday each week.

- (2) Vessels that do not possess a valid Exemption Certificate: Fifty (50) pounds per vessel per calendar day. The fishery is closed Friday, Saturday, and Sunday each week.
    - (3) Aggregate Landing Program: Two hundred (200) pounds per vessel per week. When 80% of the Summer sub-period quota has been harvested as determined by the DFW the program will terminate and the possession limit per vessel shall be fifty (50) pounds per calendar day. The fishery is closed Friday, Saturday, and Sunday each week.
- 3. September 16 – December 31 (Fall):
  - a. Target allocation: 11% of the annual quota.
  - b. Possession limit:
    - (1) Vessels that possess a valid Exemption Certificate: One hundred (100) pounds per vessel per calendar day.
    - (2) Vessels that do not possess a valid Exemption Certificate: One hundred (100) pounds per vessel per calendar day.

C. Aggregate Landing Program:

- 1. Sub-periods:
  - a. Winter: Beginning on the Sunday of the first full week in February through April 30 annually, or until 90% of the Winter sub-period quota has been harvested as determined by the DFW.
  - b. Summer: Beginning on June 1 through September 15 annually, or until 80% of the Summer sub-period quota has been harvested as determined by the DFW.
- 2. Eligibility: An applicant vessel shall be considered eligible for a permit to participate in the Aggregate Landing Program by demonstrating to the satisfaction of the DFW and the Division of Law Enforcement each of the following:
  - a. The vessel, if harvesting Summer flounder from federal waters, possesses a valid federal Summer Flounder Moratorium Permit and RI Summer Flounder Exemption Certificate (Exemption Certificate);
  - b. The vessel's operator, if harvesting exclusively in State waters, holds a valid RI commercial fishing license to harvest or land summer flounder and possesses a valid Exemption Certificate;

- c. The vessel's operator has not been assessed a criminal or administrative penalty in the past three years for a violation of this section or has more than one marine fisheries violation.
- 3. Application: Application for an Aggregate Landing Program Permit shall be made on forms as prescribed by the Director.
- 4. No vessel shall possess simultaneously more than one Aggregate Landing Program permit;
- 5. 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.
- 6. Any applicant who is permitted for the Winter sub-period for the Aggregate Landing Program may not participate in the Summer sub-period within the same year.

D. Rhode Island Summer Flounder Exemption Certificate:

- 1. Application: Applicant's shall provide each of the following:
  - a. A copy of the operator's valid current Rhode Island commercial fishing license or non-resident landing license, and Federal Fluke Permit if the summer flounder is to be taken in the EEZ;
  - b. A completed notarized application;
  - c. Proof that the vessel meets the requirements set out in this section;
  - d. Provide a completed notarized waiver authorizing the Department to access records verifying that this vessel and operator meet the criteria set forth in this section; and
  - e. A copy of the vessel's U.S. Coast Guard documentation papers or state issued boat registration certificate proving ownership of the vessel.
- 2. Eligibility: DFW will issue an Exemption Certificate for a vessel if the owner of the vessel or his/her representative applies to DFW prior to January 1, 1997, for the issuance of such a certificate and demonstrates to the satisfaction of the Director that:

- a. The operator of the vessel possesses a valid Rhode Island commercial fishing license to land Summer flounder up to the amount permitted by these regulations; and
- b. The subject vessel meets any of the following criteria:
  - (1) The vessel was operated by a person who possessed a valid Rhode Island commercial fishing license and landed and sold in excess of one pound of summer flounder to a Rhode Island licensed dealer during the period from January 1, 1987, through December 31, 1992;
  - (2) The vessel fished exclusively in the Exclusive Economic Zone (EEZ) and landed and sold in excess of one pound of summer flounder to a licensed Rhode Island licensed dealer sometime during the period January 1, 1987, through December 31, 1992. The Department may require additional supporting documents including but not limited to the ship's logs, ice and fuel slips;
  - (3) The vessel replaces a vessel which was operated by a person who possessed a valid Rhode Island commercial fishing license, and the vessel being replaced landed and sold in excess of one pound of summer flounder to a Rhode Island licensed dealer during the period from January 1, 1987, through December 31, 1992, and if the vessel being replaced was lost by sinking or was otherwise destroyed, the replaced vessel is required to have been owned by the applicant at the time of the loss;
  - (4) The vessel replaces a vessel which fished exclusively in the EEZ and landed and sold in excess of one pound of summer flounder to a Rhode Island licensed dealer, during the period January 1, 1987, through December 31, 1992, and if the vessel being replaced was lost by sinking or was otherwise destroyed, the replaced vessel is required to have been owned by the applicant at the time of the loss.
  - (5) If the vessel is replacing a vessel that was lost by sinking or was otherwise destroyed, documentation must be presented from a licensed insurance company, U.S. Coast Guard report, or some other valid evidence of ownership to the satisfaction of the Director.
- 3. Transfer of an Exemption Certificate: An Exemption Certificate issued by the DFW is only valid for the vessel to which it is issued. A vessel may be sold with all certificates, permits (state and federal) and history transferred

together or without the certificates, permits (state and federal) and history for purposes of replacing the vessel. In instances when a vessel owner retains all certificates, permits, and history they must be applied to a replacement vessel owned by said individual within ninety (90) days.

- a. Change in ownership: An Exemption Certificate is presumed to transfer with the vessel whenever it is bought, sold, or otherwise transferred, unless there is a written agreement, signed by the transferor/seller and transferee/buyer, or other credible written evidence, verifying that the transferor/seller is retaining the vessel's fishing and permit history for purposes of replacing the vessel. Individuals who purchase a vessel issued an Exemption Certificate must supply credible written evidence verifying that they are the full owner of said vessel. Vessel ownership will be determined solely by an issued and valid (unexpired) US Coast Guard documentation or state registration.
- b. Replacement Vessels: A vessel owner wishing to transfer an Exemption Certificate must provide proof to the satisfaction of the DFW that the applicant vessel is replacing a vessel and that said certificate is only applicable to the vessel for which the Exemption Certificate has been transferred.
  - (1) The vessel owner must supply credible written evidence verifying that the transferor/seller is retaining the vessel's Exemption Certificate for purposes of replacing the vessel. If a vessel owner elects to sever the Exemption Certificate from a vessel, the Exemption Certificate may be transferred only to another vessel fully owned by said vessel owner. Proof of full ownership of both vessels is required. Vessel ownership will be determined solely by an issued and valid (unexpired) US Coast Guard documentation or state registration.
  - (2) Vessel permits (state and federal), Exemption Certificates, and fishing history cannot be split.
  - (3) An Exemption Certificate may not be combined to create larger replacement vessels.
  - (4) The replacement vessel may not exceed a 10 percent increase in length overall (LOA), a 10 percent increase in gross registered tonnage (GRT) or net tonnage (NT), or a 20 percent increase in horsepower of the vessel's baseline specifications, as applicable.



- (5) Vessel baseline specifications: The vessel baseline specifications in this section are the respective specifications (length, gross registered tonnage, net tonnage, horsepower) of the vessel that was initially issued an Exemption Certificate.
  - (6) A vessel may be upgraded, whether through refitting or replacement, and be eligible to retain an Exemption Certificate, only if the upgrade complies with the following:
    - (AA) The vessel's horsepower may be increased only once, whether through refitting or replacement. Such an increase may not exceed 20 percent of the horsepower of the vessel's baseline specifications, as applicable.
    - (BB) The vessel's length, GRT, and NT may be increased only once, whether through refitting or replacement. Any increase in any of these three specifications of vessel size may not exceed 10 percent of the vessel's baseline specifications, as applicable. If any of these three specifications is increased, any increase in the other two must be performed at the same time. This type of upgrade may be done separately from an engine horsepower upgrade.
- 4. Exemption Certificates may not be:
  - a. Pledged, mortgaged, leased, or encumbered in any way;
  - b. Transferred with any retained right of repossession or foreclosure, or any condition requiring a subsequent transfer; or
  - c. Attached, distrained, or sold on execution of judgment.
- 5. Otter trawl Mesh size: Otter trawlers that land or possess 100 pounds (45.4 kg) or more of Summer flounder per day from May 1 through October 31; or 200 pounds (90.8 kg) or more of summer flounder per trip from November 1 through April 30, must fish with nets or combinations of nets that have a minimum mesh size of 5.5 inch (14.0 cm) diamond, or 6 inch (15.2 cm) square mesh applied throughout the body, extension(s) and cod end portion of the net.
- 6. Summer flounder may be landed between the hours of 6:00 AM to 8:00 PM only;
- 7. Control Date: A control date of December 31, 2010, is established for the commercial Summer flounder fishery in Rhode Island.

## **3.10 Striped Bass**

### **3.10.1 Recreational**

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

### **3.10.2 Commercial**

- A. General Category:
  - 1. Minimum size: Thirty four (34) inches or greater in total length, whether caught within the jurisdiction of this state or otherwise.
  - 2. Seasons, allocations, and possession limits: During a single calendar year, the general category Striped bass fishery shall be allowed to harvest not more than sixty-one percent (61%) of the annual Rhode Island commercial quota.
    - a. January 1 through May 27: Closed.
    - b. May 28 through August 31:
      - (1) Allocation: Seventy percent (70%) of the general category quota will be available in this sub-period.

- (2) Possession limit: Five (5) fish per person per calendar day, or if fishing from a vessel, five (5) fish per vessel per calendar day.
  - (3) The fishery will be closed in each calendar week from 12:00 AM Friday until 11:59 PM Saturday during this sub-period. There will be no commercial possession or sale of Striped bass on these days for general category commercial fishermen.
  - (4) The sub-period will close once seventy percent (70%) of the general category quota is projected to be harvested if prior to August 31.
- c. September 1 through September 9: Closed.
- d. September 10 through December 31:
  - (1) Allocation: Thirty percent (30%) of the general category quota will be available in this sub-period.
  - (2) Possession limit: Five (5) fish per person per calendar day, or if fishing from a vessel, five (5) fish per vessel per calendar day.
  - (3) The fishery will be closed in each calendar week from 12:00 AM Friday until 11:59 PM Saturday during this sub period. There will be no commercial possession or sale of Striped bass on these days for general category commercial fishermen.
  - (4) The sub-period will close when 30% of the general category quota is projected to be harvested.
  - (5) If DEM determines that the quota will be exceeded or will not be met before the end of the fall season, DFW may adjust that catch rate accordingly on or after September 15 annually.
- 3. If DEM estimates that the Floating Fish Trap sector will not fully utilize its allocation prior to the end of the season, beginning on October 15, the Division may move the Floating Fish Trap allocation into the general category fishery. DEM will consult with the Floating Fish Trap Licensees or their designee prior to enacting any allocation roll over, and will maintain written correspondence in the form of a letter on file as proof of said consultation.

B. Floating Fish Trap:

1. Floating fish trap operators must be permitted pursuant to RIMFR Part 6 – General Equipment Provisions.
  2. Allocation: During a single calendar year, the floating fish trap quota shall not be more than thirty-nine percent (39%) of the annual Rhode Island commercial quota.
  3. Minimum size: Twenty-six inches (26”) in total length.
  4. Season: April 1 through December 31.
  5. Possession limit: Unlimited. Once seventy percent (70%) of the seasonal allocation is projected to be harvested the possession limit shall be 200 pounds per floating fish trap licensee per calendar day.
  6. When DFW has determined that the annual quota allocated to floating fish traps has been reached, the fishery will terminate.
  7. Reporting: All floating fish trap operators shall keep daily records of striped bass landings and report landings to SAFIS every Monday, Wednesday, and Friday, of every week that the trap is in operation.
  8. If the floating fish trap operators are found to be out of compliance with the reporting requirements, the operators will be notified, and default to following program:
    - a. April 1 through December 31: One hundred percent (100%) of the floating fish trap quota shall be available during this sub-period. Once eighty percent (80%) of the seasonal allocation is projected to be harvested the possession limit shall be 500 pounds per floating fish trap licensee per calendar day.
- C. Gillnet prohibition for Striped bass: No person shall take or possess any striped bass while gillnetting, or while hauling a gill net.
- D. Hybrid Striped bass Cultured Striped Bass:
1. Aquaculture-reared striped bass or hybrid striped bass brought into Rhode Island for sale or resale, which is wholly or partially processed, except for cultured striped bass or hybrid Striped bass from a fish farm or processor which are a fully processed and packaged product whether fresh or frozen, shall have affixed to it a tag identifying it as an aquaculture product.
  2. Packages, containers, and each fish or fish product containing aquaculture products shall be tagged or labeled with a uniform series of 14 digit numbers and letters as shown in the example below:

MD = State of origin

123 = Permit number (producing state issued permit number)

0889 = Month and year of shipment

A1234 = Species ID and number of product

3. Each fish or fish product shall have affixed to it a tag bearing the same information listed in section 3.10.2 E. of these regulations.
  4. The sale of this product shall be accompanied by a receipt showing: (a) the date of sale; (b) name, address, and permit number of the aquaculture facility; (c) numbers and species of Striped bass sold; (d) name of purchaser.
  5. Fish shipped in the round and filleted by the seller, shall have the tag removed and wrapped in with the fillets when sold.
  6. The consignee of each subsequent sale shall retain a copy of the bill of lading or similar accountable document for 1 year, and make it available to the Department upon request.
- E. Commercial Striped Bass Tags: Each individual Striped bass shall be immediately marked with tags available from DEM. No Striped bass may be sold unless it has been properly identified with such tag. DEM may designate tagging agents as appropriate. All designated tagging agents shall keep and maintain the required forms and reports specified by DEM. All tag reports and unused tags must be returned to DEM by January 1st of the following year. Failure to return reports and unused tags may result in the tagging agent becoming ineligible to receive striped bass tags in the future.

### **3.11 Tautog**

#### **3.11.1 Recreational**

- A. Minimum size: Sixteen (16) inches.
- B. Seasons and possession limits:
  1. January 1 through April 14: Closed.
  2. April 15 through May 31: Three (3) fish per person per calendar day.
  3. June 1 through July 31: Closed.
  3. August 1 through October 14: Three (3) fish per person per calendar day.

4. October 15 through December 15: Six (6) fish per person per calendar day.
5. December 16 through December 31: Closed
6. Maximum per vessel possession limit: The possession limit shall be per person per calendar day, as stated above, with a maximum of ten (10) fish per vessel per calendar day.
7. Licensed Party and Charter vessels seasons and possession limits:
  - a. January 1 through April 14: Closed
  - b. April 15 through May 31: Three (3) fish per person per calendar day.
  - c. August 1 through October 14: Three (3) fish per person per calendar day.
  - d. October 15 through December 15: Six (6) fish per person per calendar day.
  - e. December 16 through December 31: Closed
3. Licensed Party/charter vessels are not subject to the ten (10) fish per vessel per calendar day restriction.
4. Reporting: Any Party and Charter vessel participating in the tautog fishery must report each trip targeting tautog into the elogbook (the electronic logbook hosted by ACCSP).

### **3.11.2 Commercial**

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

- a. Allocation: 20% of the annual quota.
  - b. Possession limit: Ten (10) fish per vessel per day.
- 4. September 16 through October 14: Closed.
- 5. October 15 through December 31:
  - a. Allocation: 40% of the annual quota
  - b. Possession limit: Ten (10) fish per vessel per day.

### **3.12 American eel**

#### **3.12.1 Recreational**

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

#### **3.12.2 Commercial**

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

### **3.13 American plaice**

#### **3.13.1 Recreational**

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

#### **3.13.2 Commercial**

- A. Minimum size: Twelve inches (12"), whether caught within the jurisdiction of this State or otherwise.
- B. Fishing year: The commercial American plaice fishery shall operate on a May 1 through April 30 fishing year.
- C. Possession limit:
  - 1. There is no commercial possession limit for American plaice provided the vessel is fishing in state waters and does not have a federal permit authorizing the harvest of American plaice.
  - 2. Vessels in possession of a federal permit authorizing the commercial harvest of American plaice in federal waters may harvest American plaice in state waters in the amount equal to the federal regulations.

### **3.14 American shad**

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

### **3.15 Atlantic herring**

#### **3.15.1 Commercial**



- A. Season: The season for Atlantic herring begins annually on January 1. When the Atlantic herring quota has been harvested as determined by NOAA Fisheries, the season will close.
- B. Possession limit: 2,000 pounds per vessel per day, unless the vessel holds a RI State Waters Atlantic Herring Fishing permit.
- C. Rhode Island State Waters Atlantic Herring Fishing Permit: A permit from DFW is required for vessels engaged in the fishing and/or processing of over 2,000 pounds of Atlantic herring per day in Rhode Island state waters.
  - 1. Issuance of this permit is contingent on fishing vessel captains attending a meeting with DFW staff where they are required to give proof that:
    - a. The vessel and its captain(s) have obtained all necessary and applicable authorizations to fish for Atlantic herring in RI waters (license, endorsements(s), and vessel declarations);
    - b. The vessel captain(s) have provided a valid email address to DFW 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 DFW a chart of fixed commercial fishing gear locations in Rhode Island waters and will have said chart in his/her possession while engaged in the fishing and/or processing of Atlantic Herring in RI waters;
    - d. The vessel captain(s) have received from DFW a copy of all applicable regulations governing the commercial harvest of Atlantic herring in Rhode Island waters.
  - 2. Permits shall be issued annually and are valid for one calendar year from January 1 to December 31.
  - 3. Issuance of the permit is contingent upon a background check to determine if the applicant captain or vessel has been assessed a criminal or administrative penalty in the past three years of this section or 7.20 (River herring) or more than one marine fisheries violation.
- D. River Herring Bycatch Allowance: Vessels possessing a federal Atlantic herring permit fishing in federal waters may transit Rhode Island state waters and make a landing in possession of alewives, or blueback herring, *Alosa aestivalis* (river herring) provided that the count of the combined river herring is 5% or less than the count of Atlantic herring onboard the vessel.
  - 1. The percentage of River herring in the catch will be assessed by sorting and counting a batch of fish taken from the catch of Atlantic herring on board the vessel or being landed by the vessel. This determination as to

the percentage of River herring in the catch shall be accomplished by filling a container as defined herein, with a portion of the catch and examining the contents of said container. The percentage of river herring in said container shall be deemed to be representative of the percentage of River herring in the catch as a whole for purposes of a determination as to whether a vessel is in compliance with the requirements of this section.

2. A batch of fish is defined as all fish in a separate container.
  3. A container is defined as any box, tote, bag, bucket or other receptacle capable of retaining at least 25 gallons of loose fish which may be separated from the total catch of Atlantic herring being landed.
- E. Atlantic Herring Processing: No person may process Atlantic herring for purposes other than human consumption. Direct mealings of Atlantic herring is prohibited.
- F. Atlantic Herring - Vessel Size and Horsepower: No vessel harvesting Atlantic herring in the Atlantic coast herring fishery shall exceed 165 feet in length overall, and 3,000 horsepower.

### **3.16 Atlantic salmon**

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

### **3.17 Atlantic sturgeon**

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

### **3.18 Bluefish**

#### **3.18.1 Recreational**

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

#### **3.18.2 Commercial**

- A. A total allowable harvest of Bluefish will be established annually, and shall be that amount allocated to the State of Rhode Island by the Regional Fishery Management Councils and/or the ASMFC.
- B. Minimum size: Twelve inches (12").
- C. Seasons and possession limits:

1. January 1 through April 30: Five hundred (500) pounds per vessel per week.
2. May 1 through November 11: Six thousand (6,000) pounds per vessel per week.
3. November 12 through December 31: Five hundred (500) pounds per vessel per week.

### **3.19 Coastal sharks**

#### **3.19.1 Recreational**

- A. Prohibited species. Taking or possessing any of the following shark species is prohibited: Sandbar, Silky, Sand tiger, Bigeye sand tiger, Whale, Basking, White, Dusky, Bignose, Galapagos, Night, Reef, Narrowtooth, Caribbean sharpnose, Smalltail, Atlantic angel, Longfin mako, Bigeye thresher, Sharpnose sevengill, Bluntnose sixgill, and Bigeye sixgill.
- B. Landings requirements: No person fishing recreationally shall possess or land sharks that do not have heads, tails, and fins attached naturally to the carcass. Sharks may be gutted and bled by making an incision at the base of the caudal peduncle provided the tail is not removed. No person fishing recreationally shall fillet a shark at sea or otherwise cut a shark into pieces at sea.
- C. Minimum size:
  1. Smooth Dogfish, Atlantic sharpnose, Finetooth, Blacknose, and Bonnethead shark: No minimum size.
  2. Tiger, Blacktip, Spinner, Bull, Lemon, Nurse, Shortfin mako, Porbeagle, Common thresher, Oceanic whitetip, and Blue shark: Minimum fork length is 54 inches.
  3. Scalloped hammerhead, Smooth hammerhead, and Great hammerhead shark: Minimum fork length is 78 inches.
- D. Shore-based possession limits:
  1. One (1) shark per person per calendar day, with one additional bonnethead and one (1) additional Atlantic sharpnose shark per person per calendar day.
  2. Smoothhound sharks: Unlimited.
- E. Vessel-based possession limits:

1. One (1) shark per vessel per calendar day, or per trip per calendar day, whichever is less, regardless of the number of people on board the vessel, with one (1) additional bonnethead and one additional Atlantic sharpnose shark per vessel per calendar day, or per trip per calendar day, whichever is less.
  2. Smoothhound sharks: Unlimited.
  3. Sharks that are transported by vessel are considered "boat assisted" and "vessel-based" regardless of how or where they were caught.
- F. Authorized gear: No person fishing recreationally shall take sharks by any method other than rod and reel or handline. Handlines are defined as a mainline to which no more than two gangions or hooks are attached; retrieved by hand, not by mechanical means; and attached to, or in contact with, a vessel.

### **3.19.2 Commercial**

- A. Commercial species groups: Coastal sharks are grouped into commercial species groups as follows:
1. Prohibited: Sand tiger, Bigeye sandtiger, Whale, Basking, White, Dusky, Bignose, Galapagos, Night, Reef, Narrowtooth, Caribbean sharpnose, Smalltail, Atlantic angel, Longfin mako, Bigeye thresher, Sharpnose sevengill, Bluntnose sixgill, and Bigeye sixgill shark.
  2. Research: Sandbar shark.
  3. Smoothhound: Smooth dogfish and Florida smoothhound shark.
  4. Non-Blacknose Small Coastal: Atlantic sharpnose, Finetooth, and Bonnethead shark.
  5. Blacknose: Blacknose shark.
  6. Aggregated Large Coastal: Silky, Tiger, Blacktip, Spinner, Bull, Lemon, and Nurse shark.
  7. Hammerhead: Scalloped hammerhead, Great hammerhead, and Smooth hammerhead shark.
  8. Pelagic: Shortfin mako, Porbeagle, Common thresher, Oceanic whitetip, and Blue shark.
- B. Prohibited species: Taking or possessing any of the species of sharks in the Prohibited and Research species groups is prohibited:
- C. Fishing year: January 1 through December 31.

- D. Quota specification:
1. Smoothhound sharks: A total annual statewide quota will be established for the State by the ASMFC and/or NOAA Fisheries.
  2. Species groups other than Smoothhound sharks will be established annually by the ASMFC and/or NOAA Fisheries.
- E. Seasons: Seasonal periods for commercial shark fisheries may be established annually either through NOAA Fisheries, ASMFC, or DEM.
- F. Possession limit: Possession limits will be established annually by NOAA Fisheries, ASMFC, or DEM.
1. Smoothhound, Non-Blacknose Small Coastal, Blacknose, and Pelagic shark species groups: Unlimited.
  2. Aggregated Large Coastal and Hammerhead species groups: Forty five (45) sharks per vessel per day, adjusting to between fifty five (55) and zero (0) sharks per vessel per day during the fishing year as determined by NOAA Fisheries.
  3. It shall be unlawful for any person to possess any species of shark in state waters when NOAA Fisheries prohibits the possession of that species in federal waters.
- G. Display and research of sharks: No person shall possess, transport, sell or offer to sell any of the shark species listed in the Prohibited and Research Species groups without a valid state collector's permit obtained from the Director. Any person so authorized shall:
1. Report to the Director within thirty (30) days of possession the species identification, length, weight, date, and location where caught by latitude and longitude coordinates, and the gear used; and
  2. For each shark taken for live display, the holder of the permit shall also report to the Director annually by December 31 for the life of the shark. The report shall include all of the information specified in the original report to the Director pertaining to the sharks, as well as updated information on the length and weight of the shark.
- H. Authorized sale: No person shall sell any shark species to a person or dealer who does not possess a Rhode Island commercial dealer license, and a federal Commercial Shark Dealer Permit issued by the NOAA Fisheries.
- I. Authorized commercial gear: No person shall take or possess sharks using any method other than the following gear types:

1. Rod & reel;
  2. Handlines, which are defined as a mainline to which no more than two gangions or hooks are attached. A handline is retrieved by hand, not by mechanical means, and must be attached to, or in contact with, a vessel;
  3. Small mesh gillnets which are defined as having a stretch mesh size smaller than five (5) inches;
  4. Large mesh gillnets which are defined as having a stretch mesh size equal to or greater than five (5) inches;
  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;
  7. Pound nets/fish traps;
  8. Weirs.
- J. Bycatch reduction measures: Vessels using shortlines and large-mesh gillnets to catch sharks must abide by the following bycatch regulation measures. Any vessels using shortlines or large-mesh gillnets that do not follow the following bycatch reduction measures are prohibited from possession, landing or selling any sharks.
1. Any vessel using a shortline shall adhere to the following:
    - a. Use corrodible circle hooks, which are defined as non-offset hooks with the point turned perpendicularly back to the shanks; and
    - b. Practice the protocols, and possess the federally required release equipment, for pelagic and bottom longlines for the safe handling, release, and disentanglement of sea turtles and other non-target species; and
    - c. All captains and vessel owners must be certified in using, handling and release equipment. Captains and vessel owners can become certified by attending a Protected Species Safe Handling, Release, and Identification Workshop offered by NOAA Fisheries.
  2. Any vessel using large-mesh gillnets, must use nets that are shorter than 2.5 kilometers.
- K. Prohibition of finning: Finning is defined as the act of taking a shark and removing its fins. Finning of sharks is prohibited in all state waters. All sharks,

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

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

## **3.20 Cod**

### **3.20.1 Recreational**

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

### **3.20.2 Commercial**

- A. Minimum size: Nineteen inches (19"), whether caught within the jurisdiction of this State or otherwise.
- B. Fishing year: The commercial Cod fishery shall operate on a May 1 through April 30 fishing year.
- C. Possession limit: 1,000 pounds per vessel per calendar day for any vessel fishing in state waters. The possession limit may be modified on the basis of a RI state water cod quota as set by DFW, which shall be equal to 1% of the federal Georges Bank cod annual catch limit (ACL) for the given fishing year. When 90% of the state water quota has been harvested as determined by the DFW, the possession limit will decrease to 75 pounds of cod per vessel per calendar day for the remainder of the fishing year.

## **3.21 Haddock**

### **3.21.1 Recreational**

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

### **3.21.2 Commercial**

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

## **3.22 Menhaden**

### **3.22.1 Recreational**

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



### 3.22.2 Commercial

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

1. Opening and closure of fishery:

a. Fishery opening - possession limits:

- (1) Biomass Floor: On an annual basis in the spring, the DEM shall conduct regular estimates of the standing stock of menhaden present in the Management Area utilizing approved scientific monitoring methods. On the basis of those estimates, DFW shall open the commercial fishery at an initial possession limit of 120,000 pounds per vessel per calendar day when the estimated weekly standing stock reaches 2,000,000 pounds.
- (2) The possession limits may be modified by the DEM on the basis of the estimated weekly standing stock of menhaden in the Management Area derived via approved scientific monitoring methods.
- (3) The possession or taking of menhaden is prohibited on any Saturday, Sunday, official state holiday, or prior to sunrise or following sunset, unless using a non-directed gear type for menhaden. Non-directed gear shall be defined as cast nets, floating fish traps, and rod and reel.

b. Fishery closure:

- (1) Biomass Ceiling: When 50% of the estimated standing stock of menhaden stock present in the management area, above the minimum threshold amount of 1,500,000 pounds, is harvested, the DEM shall close the menhaden fishery until further notice.
- (2) If at any time the stock estimate drops below 1,500,000 pounds, the DEM shall close the commercial fishery until further notice.

- (3) Non-directed gear possession limit allowance: Upon closure of the fishery, the possession limit is 6,000 pounds per vessel per day for vessels utilizing non-directed gear.
- 2. Purse seine restrictions: The use of purse seines in the Management Area shall be permitted only in accordance with the following terms and conditions:
  - a. All nets shall be less than 100 fathoms (600 feet) in length and less than 15 fathoms (90 feet) in depth.
  - b. All nets shall be marked with fluorescent-colored float buoys, distinguishable from the other float buoys on the net, at intervals of 50 feet.
  - c. Annually, prior to use, all nets shall be inspected and certified as being in conformance with the provisions of this section by the DEM Division of Law Enforcement (DLE). Once inspected and certified, a net may be used throughout the duration of the calendar year in which it was inspected, provided that it is not altered with regard to any of the provisions of this section. Any net that is altered with regard to any of the provisions of this section must be re-inspected and recertified prior to use.
- 3. Permanently closed areas (waters) to purse seining for menhaden:
  - a. Providence River: All waters north of a straight line extending from Rocky Point to Conimicut Light to Nayatt Point.
  - b. Greenwich Bay: All waters in Greenwich Bay west of a line from the flag pole on Warwick Point to Sandy Point.
  - c. Harvest of menhaden in permanently closed areas: No person harvesting menhaden shall possess more than 200 menhaden per vessel per calendar day unless using gear types other than purse seine.
- 4. Commercial vessel restrictions: A fishing vessel engaged in the commercial menhaden fishery may not have a useable fish storage capacity greater than 120,000 pounds. Prior to the commencement of fishing, for any vessel not previously certified through this process, each vessel must be inspected by a certified marine surveyor and assessed with regard to its fish storage capacity. Such certification must be kept aboard the vessel at all times. Vessels must either be certified as having a useable storage capacity of 120,000 pounds or less, or for vessels with a fish storage capacity greater than 120,000 pounds the excess capacity is rendered unusable in accordance with the specifications set forth in the assessment.

5. Fall opening in the Menhaden Management Area:
    - a. Beginning September 1 annually, the area south of a line extending from the Jamestown and Newport Bridges, and the area south of a line extending from Fogland Point to Sandy Point in the Sakonnet River, to the southern extent of the Management Area, will be open to the harvest of menhaden by purse seine provided that the state's quota has not been exhausted or if the Episodic Event Set Aside Program has been enacted in RI.
    - b. Possession limit: 25,000 pounds per vessel per day.
  6. Reporting requirements:
    - a. 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.
    - b. 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.
- B. Landing of menhaden in RI under State Quota Program: An annual statewide quota for menhaden is established annually for the State by the ASMFC. The quota shall pertain solely to landings of menhaden in RI and shall not pertain to the possession of menhaden in RI waters prior to landing.
1. The landing limit is unlimited until the quota has been reached, as determined by the DEM.
  2. Once the quota has been reached, the fishery will close for directed fisheries, including but not limited to purse seine operations, and a bycatch limit will be in effect. The bycatch limit will be:
    - a. Non-directed fisheries: 6,000 pounds per vessel per day.
    - b. Pound nets, fish traps, anchored/staked gill nets, and fyke nets: If two commercially licensed individuals are harvesting from the same vessel, two (2) daily possession limits (12,000 pounds per vessel per day).
  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, unless using non-directed gear.

C. Episodic Event Set Aside Program:

1. After the State's quota has been reached, if RI is approved to participate in the Episodic Event Set Aside Program for Menhaden, as established by the ASMFC, the landing limit for menhaden will be 120,000 pounds per vessel per day for vessels associated with directed fisheries for Menhaden, until the Set Aside quota has been exhausted, as determined by the ASMFC and/or the DEM, at which time the program will end and the directed fishery will close. Vessels that target and land menhaden in RI under this program must harvest only from RI waters and, if operating in the Management Area, must adhere to all of the provisions as specified in these regulations.
2. Reporting Requirements:
  - a. Any person intending to engage in the commercial menhaden fishery under the Episodic Event Set Aside Program must 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 to the possession limit for menhaden that is applicable to operations conducted in the Management Area.
  - b. Each person engaged in the commercial menhaden fishery shall contact the DFW at (401) 423-1940 at the end of each daily trip or within four hours thereof to report the amount of menhaden landed by the fisher in pounds. These menhaden-specific reporting requirements are in addition to all other existing commercial fishing reporting requirements as set forth in the RI Marine Fisheries regulations.
3. Vessels not associated with directed fisheries for menhaden may continue to harvest and land in RI up to 6,000 pounds per vessel per day as bycatch. Such vessels are not subject to the provisions of sub-sections 3.22.2 A.1.a.(2)&(3), but are subject to the provisions of section 3.22.2 A. with regard to operations conducted in the Management Area, and are subject to all existing commercial fishing reporting requirements as set forth in the RIMFR.
4. The Episodic Event Set Aside Program will end on November 1 annually or when the set aside quota has been harvested, whichever first occurs.

D. 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.

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

### **3.23 Monkfish**

#### **3.23.1 Recreational**

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

#### **3.23.2 Commercial**

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

previously and properly declared day-at-sea; in such instances, such vessels may harvest monkfish in the amount authorized to be possessed pursuant to federal regulations.

### **3.24 Pollock**

#### **3.24.1 Recreational**

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

#### **3.24.2 Commercial**

- A. Minimum size: Nineteen inches (19"), whether caught within the jurisdiction of this State or otherwise.
- B. Fishing year: The commercial pollock fishery shall operate on a May 1 through April 30 fishing year.
- C. Possession limit:
  - 1. There is no commercial possession limit for pollock provided the vessel is fishing in state waters and does not have a federal permit authorizing the harvest of pollock.
  - 2. Vessels in possession of a federal permit authorizing the commercial harvest of pollock in federal waters may harvest 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 annually.
- B. State-waters skate wing fishery: Shall be defined as skate harvested, possessed, or landed by a vessel:
  - 1. Fishing in state waters, not on a previously declared Day At Sea (DAS), and without an active federal open-access skate permit; and
  - 2. For food for human consumption with a designated ACCSP Disposition Code 001 = Food.
  - 3. Minimum size: No minimum size.
  - 4. Possession limit: 18,200 pounds per vessel per week for wings only; or 41,314 pounds per vessel per week for whole skate.
- C. Skate bait fishery: Shall be defined as skate harvested, possessed, or landed by a vessel:
  - 1. Fishing in state waters, not on a previously declared DAS, without an active federal open-access skate permit, and without a federal skate bait Letter of Authorization (LOA); and
  - 2. For use as bait with a designated ACCSP Disposition Code 008 = Bait.
  - 3. Maximum length: Whole skates must measure less than twenty three (23) inches total length.
  - 4. Seasons and possession limits:
    - a. Sub-period I - May 1 through July 31:
    - b. Sub-period II - August 1 through October 31:
    - c. Sub-period III - November 1 through April 30:
    - d. Possession Limit: The starting possession limit for each sub-period will be 25,000 pounds whole skate per vessel per day. When 90 percent of a bait skate TAL allocation in either Sub-period I or II, or when 90 percent of the annual Skate Bait TAL is landed, as determined by NOAA Fisheries, the possession limit will be

reduced to the whole weight equivalent of the skate wing possession limit in effect at that time (either 5,902 pounds, 9,307 pounds, or 1,135 pounds whole skate).

### **3.26.3 Prohibited species**

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

## **3.27 Spiny dogfish**

### **3.27.1 Commercial**

- A. Seasons, allocations, and possession limit: RI is currently designated as a state that is part of the Northern region. A Northern region possession limit and quota for spiny dogfish will be established annually by the ASMFC. The Northern region quota for spiny dogfish shall be the most recent allocation by the ASMFC, which is currently set at 58% of the coastwide quota.
  - 1. Season: May 1 until April 30 of the following year.
  - 2. Possession limit: 5,000 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 DFW shall close the fishery for the remainder of the designated period.
  - 3. DFW is hereby authorized to enter into agreements with the other Northern Region States for the purpose of establishing seasons and possession limits governing the taking of spiny dogfish, and may make adjustments as deemed necessary to comply with said agreements. DFW will consult with the Rhode Island state-water spiny dogfish fishers prior to negotiating the subject agreements.
- B. Prohibition of Finning: Finning is defined as the act of taking a spiny dogfish, removing the fins, and returning the remainder of the spiny dogfish to the sea. Finning spiny dogfish is prohibited in state waters. In addition, removing any fin of spiny dogfish at-sea is prohibited (including the tail). All spiny dogfish must be landed with fins-naturally-attached to the corresponding carcass. Gutting fish at-sea is permitted, so long as the fins remain attached by a portion of uncut skin.

## **3.28 Yellowtail flounder**

### **3.28.1 Recreational**

- A. Minimum size: Thirteen inches (13”), whether caught within the jurisdiction of this State or otherwise.



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

### **3.28.2 Commercial**

- A. Minimum size: Twelve inches (12"), whether caught within the jurisdiction of this State or otherwise.
- B. Fishing year: The commercial Yellowtail flounder fishery shall operate on a May 1 through April 30 fishing year.
- C. Possession Limit:
  - 1. There is no commercial possession limit for Yellowtail flounder provided the vessel is fishing in state waters and does not have a federal permit authorizing the harvest of Yellowtail flounder.
  - 2. Vessels in possession of a federal permit authorizing the commercial harvest of Yellowtail flounder in federal waters may harvest Yellowtail flounder in state waters in the amount equal to the federal regulations.

## **3.29 Weakfish**

### **3.29.1 Recreational**

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

### **3.29.2 Commercial**

- A. Minimum size: Sixteen inches (16"), whether caught within the jurisdiction of this State or otherwise.
- B. Seasons and possession limits:

1. June 1 through June 30: One hundred (100) pounds per vessel per calendar day.
  2. August 7 through November 8: One hundred (100) pounds per vessel per calendar day.
  3. At all other times, the possession limit is one hundred (100) pounds per vessel per calendar day as bycatch only with an equivalent poundage of other species required to be on board the vessel. Provided, however, that the commercial hook and line fishery is not permitted a bycatch allowance.
- C. For directed trawl operations, cod end mesh size must be  $\geq 4.5$ " diamond or 4.0" square.

### **3.30 Winter Flounder**

#### **3.30.1 Recreational**

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

#### **3.30.2 Commercial**

- A. Minimum Size: Twelve (12) inches whether caught within the jurisdiction of this State or otherwise.
- B. Season: January 1 through December 31.
- C. Possession limit: Fifty (50) pounds per vessel per day.
- D. Closed Areas: The harvest or possession of Winter flounder is prohibited in Narragansett Bay north of the Colregs line; Potter Pond; Point Judith Pond and the Harbor of Refuge.
- E. Minimum mesh size:
  1. Bottom trawl nets: Six (6) inch diamond mesh or six and one half (6.5) inch square mesh applied throughout the body and extension of the net, or any combination thereof, and six and one half (6.5) inch diamond mesh or

six and one half (6.5) inch square mesh applied to the cod end of the bottom trawl nets.

2. Gill nets: Six and one half (6.5) inch diamond mesh or six and one half (6.5) inch square mesh applied throughout the net. Vessels may utilize commercial fishing gear with mesh smaller than the sizes referenced in this section provided they do not possess any Winter flounder.
  - a. For vessels greater than 45 ft. in length overall, a diamond mesh cod end is defined as the first 50 meshes counting from the terminus of the net, and a square mesh cod end is defined as the first 100 bars counting from the terminus of the net.
  - b. For vessels 45 ft or less in length overall, a diamond mesh cod end is defined as the first 25 meshes counting from the terminus of the net, and a square mesh cod end is defined as the first 50 bars counting from the terminus of the net.
- F. With the exception of gillnets and fyke nets, fishing for Winter flounder in waters north of the seaward entrance to all coastal salt ponds, (with the exception of Point Judith Pond and the Harbor of Refuge where the harvest or possession of winter flounder is prohibited), including the waters of Narrow River, and the waters of Little Narragansett Bay north of a line from Napatree Point to the western end of Sandy Point, including the waters of the Pawcatuck River, will be prohibited from one hour after sunset until one hour before sunrise. Gillnets and fyke nets may not be hauled from one hour after sunset to one hour before sunrise.

### **3.31 Witch flounder**

#### **3.31.1 Recreational**

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

### **3.31.2 Commercial**

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