



Rhode Island Marine Fisheries Council

3 Fort Wetherill Road Jamestown, Rhode Island 02835

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

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

MEETING NOTICE RI MARINE FISHERIES COUNCIL

April 1, 2019 – 5:30 PM

URI Narragansett Bay Campus, Coastal Institute Building

Corless Auditorium

South Ferry Road, Narragansett, RI

AGENDA

Agenda item	Recommended action(s)	ePacket Attachment(s)
1. Tonight's agenda	Approval of agenda.	<ul style="list-style-type: none"> • Tonight's meeting agenda
2. Meeting minutes from last meeting	Approval of meeting minutes.	<ul style="list-style-type: none"> • Draft meeting minutes 12/3/18
3. Public comment	Discussion and/or recommendations for future action.	N/A
4. <u>Shellfish Advisory Panel meeting summary:</u> J. Grant/C. McManus	Approval of meeting minutes.	<ul style="list-style-type: none"> • Agenda • Powerpoint presentation • Draft meeting minutes
5. <u>Aquaculture lease application review:</u> J. Grant/C. McManus	Provide recommendation to CRMC.	<ul style="list-style-type: none"> • 2018-05-159, Pinsky, Ninigret Pond • 2018-09-033, Torre and Davidson, Sakonnet River • 2018-08-071, Griffin, Narr. Bay West Passage
6. <u>March 11 public hearing items:</u> J. McNamee	Provide recommendations to the Director regarding proposed regulations.	<ul style="list-style-type: none"> • Hearing presentation: <ul style="list-style-type: none"> ○ 2019 recreational Summer flounder management. ○ 2019 commercial Summer flounder management. ○ 2019 recreational Black sea bass management. ○ 2019 commercial Black sea bass management. ○ 2019 recreational Scup management. ○ 2019 commercial Scup management. ○ 2019 recreational Striped bass management. ○ 2019 commercial Striped bass general category management.

		<ul style="list-style-type: none"> ○ 2019 commercial Striped bass floating fish trap management. ○ 2019 party/charter possession limit for Tautog. ○ 2019 recreational Bluefish management. ○ 2019 commercial Bluefish management. ○ 2019 commercial Blacknose sharks. ○ 2019 recreational Cod management ○ 2019 commercial menhaden management. ○ Whelk minimum size measurement. ○ Whelk pot tagging program. ○ Lobster trap tag replacements. ○ Upper Narr. Bay Trawl Area - clarification of open and closed periods. ○ Upper Narr. Bay Trawl Area – clarification area description. ○ Gill net tag - valid dates. ● Summary of hearing comments ● Written comments received ● Public notices ● Annotated regulations
7. <u>RI Saltwater Recreational Fishing License Program</u> Report: <i>J. Lake</i>	Approval of report for submittal to General Assembly.	<ul style="list-style-type: none"> ● Draft Report ● RIGL 20-2.2-10
8. <u>RIMFC Annual Report:</u> <i>B. Ballou</i>	Approval of report for submittal to the General Assembly.	<ul style="list-style-type: none"> ● Draft report ● RIGL §20-3-2
9. <u>Offshore wind development update:</u> <i>J. Livermore</i>	FYI/discussion and/or recommendations for future action.	
10. <u>FYI:</u>		<ul style="list-style-type: none"> ● Director Decision memo re: November 2018 hearing items
11. Adjourn		

All RIMFC Meetings are open to the public

Posted to Sec. of State Open Meetings on March 26, 2018



Rhode Island Marine Fisheries Council

3 Fort Wetherill Road Jamestown, Rhode Island 02835

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

MEETING SUMMARY

December 3, 2018

Chairperson: *B. Ballou (DEM)*

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

Division: *J. McNamee, C. McManus, J. Lake, J. Livermore, N. Costa, P. Duhamel, M. McGrath*

DEM Legal: *C. Hoefsmit*

Public: Approximately 10 persons in attendance

1. **Approval of the Agenda:** *B. Ballou* inquired as to any modifications to the agenda, or to any objections to adopting the agenda. Hearing none, the agenda was approved by consent.
2. **Approval of minutes from meeting on October 1, 2018:** *B. Ballou* inquired as to any proposed modifications or objections to adopting the minutes. Hearing none, the minutes were approved by consent.
3. **Public comments regarding other matters not on agenda:** *R. Hittinger*, RISAA vice-president, requested that the Council and Division consider a regulatory amendment to provide for the harvest of smaller sized summer flounder for recreational shore anglers. He offered that Connecticut has such a provision where anglers may keep one 16-inch fish when angling from shore. He offered that shore anglers in RI often catch several sub-legal size summer flounder, but can struggle to find legal size fish, and that such a provision should have a negligible impact on effort. *J. McNamee* offered that a hearing scheduled in February will address recreational summer flounder proposals, and that the pre-hearing workshop scheduled in January would be the best opportunity to present the proposal.

R. Bellavance, president of the RI Party & Charter Boat Association, requested that the Council and Division consider regulatory amendments that would align the federal and state recreational regulations for groundfish, particularly the minimum size and the allowance of multi-day trips for Cod. *B. Ballou* offered that the matter could also be presented at the workshop noted above.

4. **November 19 hearing items:**
 - **Commercial Black sea bass:** *J. McNamee* provided a brief overview of the proposal and the two options noticed, and offered that the Division had no preference and could support either of the options proposed. **Motion made by *M. Rice* to recommend adoption of option 1 as proposed (status quo); 2nd by *D. Monti*. The motion passed 8 - 0.** *J. McNamee* offered that unless recommended otherwise by the

Council and Director, the Division would continue to close the fishery early rather than reduce the possession limit from 50 to 25lbs/day. **A second motion was then made by J. Grant to recommend to the Director that the issues set forth in the petition submitted during the public comment period, namely that the black sea bass and summer flounder fisheries be more aligned relative to open/closed days, and that overlap between the Massachusetts and RI seasons be avoided, be bought back to hearing for consideration as a viable management program.** J. McNamee offered that any such proposal could be added as an item for the next hearing, but that the effective date of the rule would be in early Spring. **2nd by M. Rice. The motion passed 6 – 2 (T. Barao and M. Roderick opposed).**

- **Commercial Scup:**
 - **Proposal #1 – management program:** J. McNamee offered a brief overview. **Motion made by D. Monti to recommend adoption of option 1 as proposed (status quo); 2nd by C. Rein. The motion passed 8 - 0.** J. McNamee also offered that there was a rule change for scup at the federal level regarding incidental possession that was inadvertently not included as part of this hearing, but that such would be added to the next hearing and could be adopted before the Spring season.
 - **Proposal #2 - amend the maximum scup pot limit:** J. McNamee offered a brief overview. **Motion made by J. Jarvis to recommend adoption of a 150 pot limit; 2nd by T. Barao. The motion passed 8 - 0.**
- **Commercial summer flounder:** J. McNamee offered a brief overview. **Motion made by J. Grant to recommend to the Director adoption of option 2, including adding Sunday as an open day, only if 15% increase or greater in quota is realized, otherwise option 1 (status quo) is the recommendation; 2nd by J. Jarvis. The motion passed 6 – 2 (T. Barao and M. Roderick opposed).** It was confirmed that the Division would close the fishery rather than drop to 25 lbs/day.
- **Recreational tautog:** J. McNamee offered a brief overview. **Motion made by D. Monti to recommend adoption of the proposal as proposed; 2nd by A. Dangelo. The motion passed 8 - 0.**
- **Commercial tautog:**
 - **Proposal #1 – management program:** J. McNamee offered a brief overview. **Motion made by C. Rein to recommend adoption of option 2 as proposed (status quo); 2nd by A. Dangelo. The motion passed 5 – 3 (M. Rice, D. Monti, and T. Barao opposed).**
 - **Proposal #2 - proposed adoption of a fish tagging program:** J. McNamee offered a brief overview and explained that it is an FMP compliance matter, however implementation is not required until 2020. **Motion made by D.**

Monti to recommend adoption of the proposal as proposed; 2nd by M. Rice. The motion passed 8 - 0.

5. **Striped bass conservation equivalency proposal:** *J. McNamee* offered that this matter was a follow-up to a Council request made several meetings ago. He offered that the Division does not support such a proposal at this time until the stock assessment is updated in 2020.
6. **FYI Items:** *B. Ballou* provided an update regarding the pending ASMFC proposals regarding the opening of a Block Island Transit Zone to recreational striped bass fishing; a proposal to allow transiting from Block Island with summer flounder, scup, and black sea bass; proposed changes to commercial summer flounder management; and, proposed changes to recreational management programs for summer flounder and black sea bass. *J. Livermore* offered an update on offshore wind development.
7. **Other business:** There was no other business discussed.
8. **Meeting adjournment:** The meeting was adjourned by consent at approximately 7:30pm.

The full video recording of the meeting is available at the DEM YouTube channel at <https://www.youtube.com/watch?v=F6rzgl7Qzpk&feature=youtu.be>. To skip to individual agenda items, please expand the “SHOW MORE” tab.

Shellfish Advisory Panel
February 20, 2019 - 4:30PM
URI Bay Campus, Large Conference Room
215 S Ferry Road, Narragansett, RI 02882

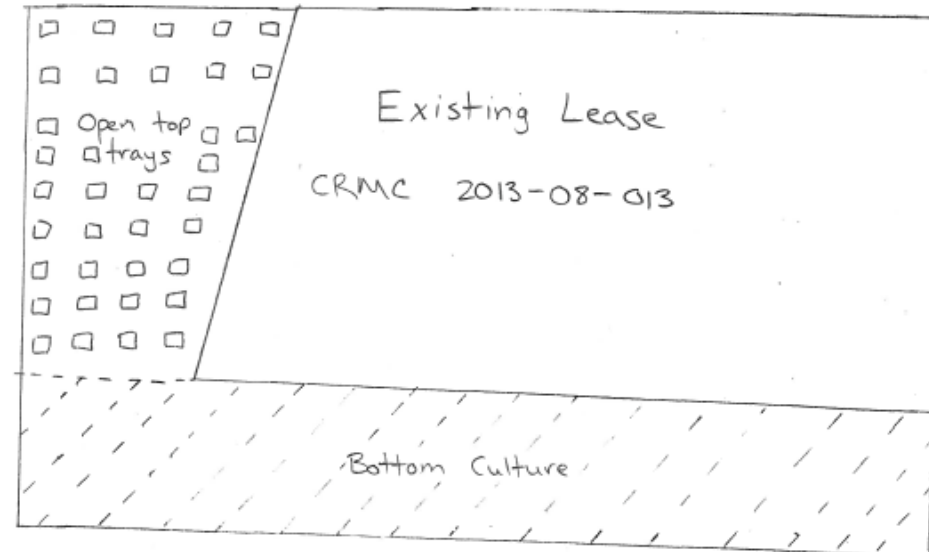
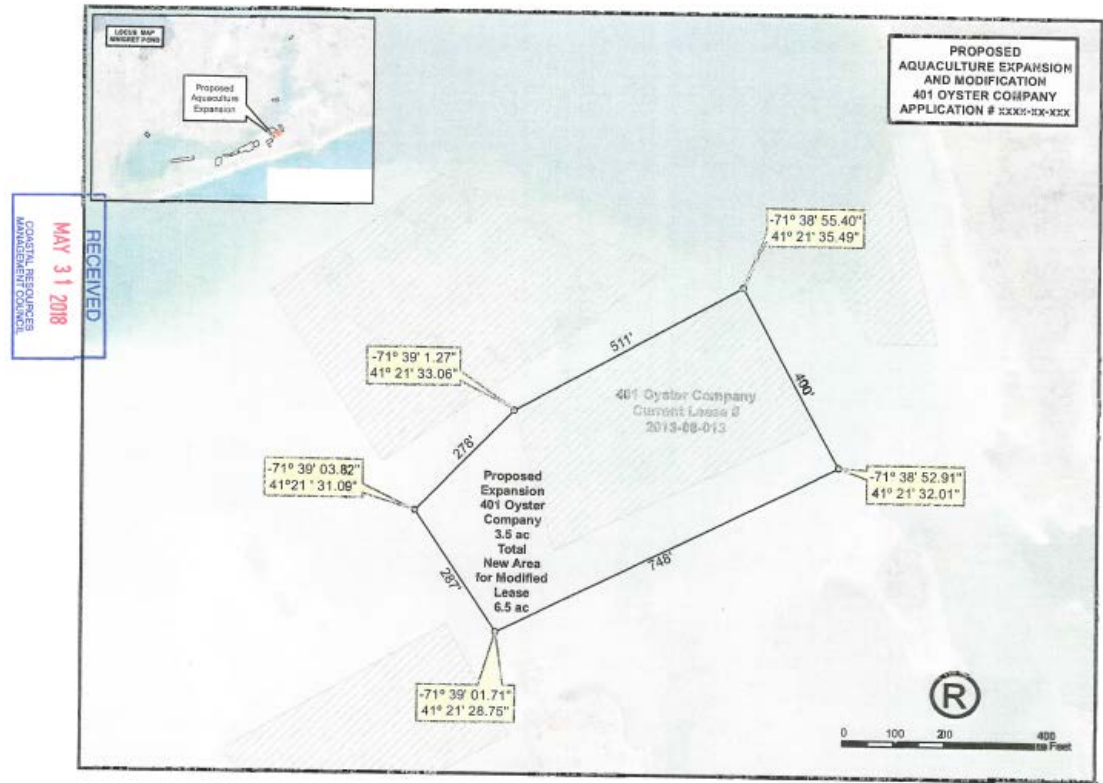
AGENDA

1. Review of Aquaculture Applications sent to Public Notice
 - a. 2018-04-159, Pinsky, Ninigret Pond
 - b. 2018-09-033, Torre and Davidson, Sakonnet River
 - c. 2018-08-071, Griffin, Narragansett Bay West Passage
2. Presentation on estimating dredge catch efficiency for the Narragansett Bay quahog population
3. Presentation on current quahog stock assessment model for Narragansett Bay.

1. Aquaculture Leases

2018-05-159, Pinsky -
Ninigret Pond

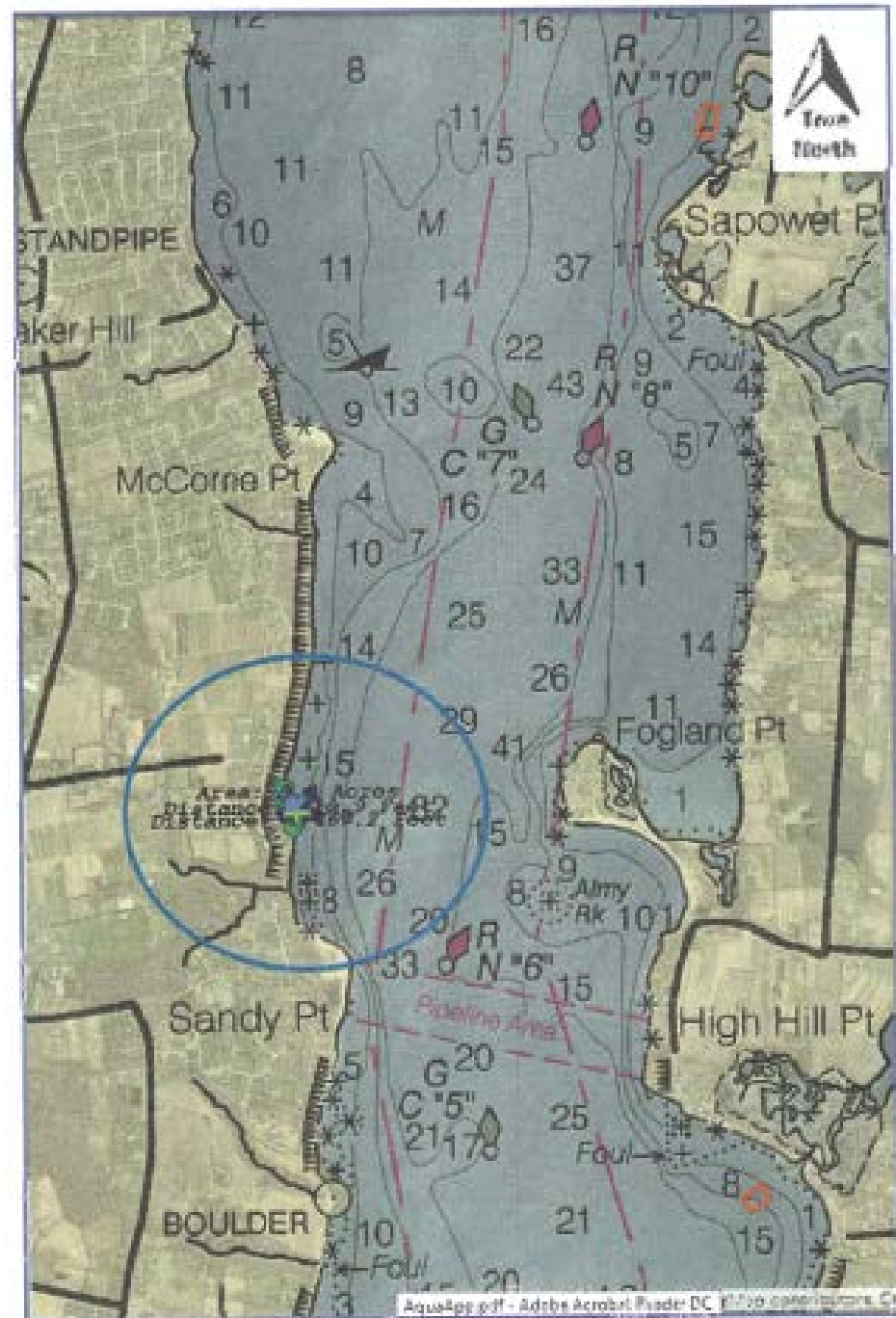
- Existing lease expansion of 2.8 acres to 6.5 acres total for oysters
- Includes open top trays and bottom plant



1. Aquaculture Leases

2018-09-033, Torre & Davidson, Sakonnet

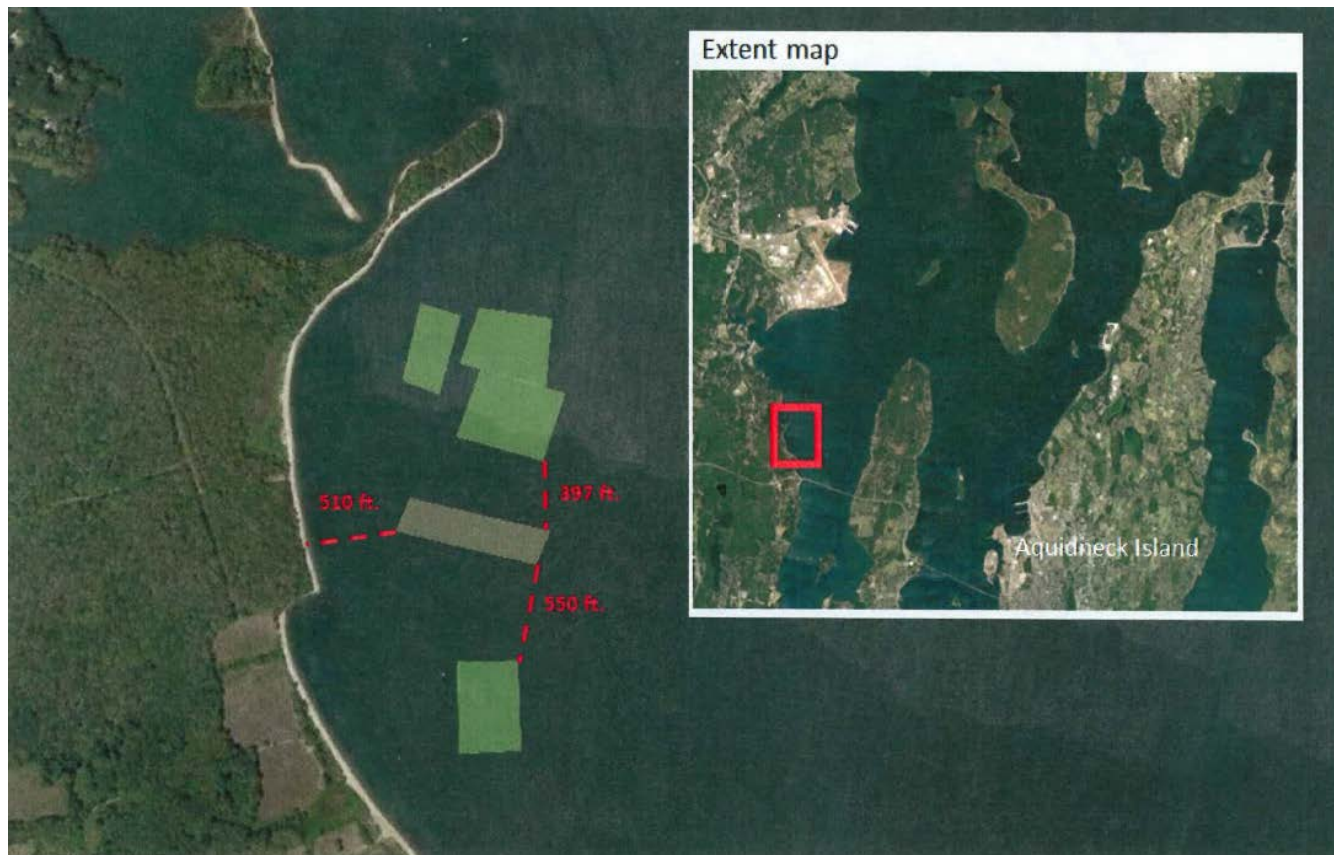
- 3 acre lease for oysters
- Farm in The Sakonnet River
- Floating cages for oysters



1. Aquaculture Leases

2018-08-071 Matthew Griffin – Narragansett Bay West Passage

- 4.2 acre lease for oysters, bay scallops and kelp
- Farm in North Kingstown
- Includes floating, suspended, and bottom gear
 - 516 floating cages for oysters
 - 50 bottom cages for bay scallops
 - Longlines for kelp



Shellfish Advisory Panel

February 20, 2019; 4:30PM

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

MEETING SUMMARY

RIMFC members: J. Grant (Chair)

DEM: C. McManus; J. McNamee, E. Schneider, A. Gerber-Williams;

Scientific Advisor: D Leavitt;

SAP members: M. McGiveney, D. Ghigliotty, G. Schey;

CRMC: D. Beutel;

Public: D. Foley, M. Griffin, D. Torre, B. Pinsky;

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

- 2018-05-159, Pinsky, Ninigret Pond: *D. Beutel* provided a brief overview of the proposal, which consists of expanding a current lease. *D. Beutel* indicated the estimated quahog density in the expansion footprint was 0.4 quahogs m⁻². *D. Foley* expressed concerns for commercial harvest in the ponds in general, as several people commercially fish in Ninigret Pond. However, this site did not interfere with the commercial harvest that he was aware of. *B. Pinsky* indicated that there is no commercial harvest that he has seen occur in the proposed expansion area. Discussion ensued on the 5% rule: its origination, the challenge of 5% being applied when, in reality, the available area for aquaculture is not the whole pond (e.g. mooring fields, navigation, spawner sanctuaries, prohibited waters based on water quality), and that the uses of the pond often occur in the same areas. **Motion made by *M. McGiveney* to recommend no objection to the application; 2nd by *G. Schey*. The motion passed 3-0.**
- 2018-09-033, Torre and Davidson, Sakonnet River: *D. Beutel* provided a brief overview of the proposal. *D. Beutel* indicated that whelk fishers are active adjacent to the proposed site, and that there would be significant objection by them if the applicant attempted to expand this site in the future. *M. McGiveney* asked about the depth of the site and other prospective conflicts that may be present. *D. Ghigliotty* asked why this site was picked, and the applicant explained that he and his brother picked this site using shellfish habitat suitability models that suggested best potential growth and survival, and found that this area would be most suitable. **Motion made by *G. Schey* to recommend no objection to the application; 2nd by *M. McGiveney*. The motion passed 3-0.**

- 2018-08-071, Griffin, Narragansett Bay West Passage: *D. Beutel* provided a brief overview of the proposal. *M. Griffin* explained that this site was a commercial viability site that he is now looking to proceed with as a formal, harvestable site. *G. Schey* asked about recreational fishing in the area, and there were no comments received regarding conflicts with the recreational fishing in the area by *D. Beutel*. **Motion made by *M. McGiveney* to recommend no objection to the application; 2nd by *G. Schey*. The motion passed 3-0.**

2. Presentation on estimating dredge catch efficiency for the Narragansett Bay quahog population.

C. McManus presented research conducted by Roger Williams University, the Commercial Fisheries Research Foundation, and RIDEM Division of Marine Fisheries on the state's quahog hydraulic dredge efficiency, and how results can be used to better estimate quahog abundances in Narragansett Bay.

3. Presentation on current quahog stock assessment model for Narragansett Bay.

J. McNamee presented and updated version of RIDEM Division of Marine Fisheries' new quahog stock assessment model, including the data inputs (landings, dredge survey indices, life history parameters) and the results to-date.

Prepared by: C. McManus



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

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

PUBLIC NOTICE

File Number: 2018-05-159 Date: June 11, 2018

This office has under consideration the application of:

Brian Pinsky
 401 Oyster Company, LLC.
 P O Box 1694
 Charlestown, RI 02813

for a State of Rhode Island Assent to: expand an existing oyster farm using open top bottom trays and direct bottom plant. The total area for the existing and expanded farm would be 6.5 acres. Please see the attached map.

Project Location:	Ninigret Pond
City/Town:	Charlestown
Plat/Lot:	/
Waterway:	Ninigret Pond

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

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

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

If you desire to protest, you must attend the scheduled hearing and give sworn testimony. A notice of the time and place of such hearing will be furnished you as soon as possible after receipt of your request for hearing. If you desire to request a hearing, to receive consideration, it should be in writing (**with your correct mailing address, e-mail address and valid contact number**) and be received at this office on or before July 10, 2018.



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

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

APPLICATION FOR STATE ASSENT

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

Applicant's Name: <u>Brian Pinsky, 401 Oyster Company LLC</u>		File No (CRMC use only): <u>2018-CS-159</u>
Mailing Address: <u>PO Box 1694</u>		Res. Tel. # <u>413 250 2861</u>
City/Town: <u>Charlestown</u>	State: <u>RI</u> Zip Code <u>02813</u>	Bus. Tel. # <u>Same</u>
Waterway: <u>Ninigret Pond</u>	Est. Project Cost \$ <u>2000</u>	Fee/Costs: \$ <u>100</u>
Longitude/latitude of all corners of Proposed Aquaculture Project Location (preferably in decimal degrees): <u>-71°38'55.4" -71°38'52.91" -71°39'01.71" 71°39'03.82" -71°39'1.27"</u> <u>41°21'35.49" 41°21'32.01" 41°21'28.75" 41°21'31.09" 41°21'33.06"</u>		

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

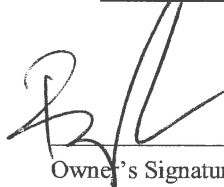
yes 2013-08-013

Is this application being submitted in response to a coastal violation?

Yes _____ No X

If yes, you must indicate NOV or C&D Number _____

Is this site within a designated historic district? no


 Brian Pinsky
 Owner's Signature (sign and print)

STORMTOOLS (<http://www.beachsamp.org/resources/stormtools/>) is a planning tool to help applicants evaluate the impacts of sea level rise and storm surge on their projects. The Council encourages applicants to use STORMTOOLS to help them understand the risk that may be present at their site and make appropriate adjustments to the project design.

NOTE: The applicant acknowledges by evidence of their signature that they have reviewed the Rhode Island Coastal Resources Management Program, and have, where possible, adhered to the policies and standards of the program. Where variances or special exceptions are requested by the applicant, the applicant will be prepared to meet and present testimony on the criteria and burdens of proof for each of these relief provisions. The applicant also acknowledges by evidence of their signature that to the best of their knowledge the information contained in the application is true and valid. If the information provided to the CRMC for this review is inaccurate or did not reveal all necessary information or data, then the permit granted under this application may be found to be null and void. Applicant requires that as a condition to the granting of this assent, members of the CRMC or its staff shall have access to the applicant's property to make on-site inspections to insure compliance with the assent. This application is made under oath and subject to the penalties of perjury. 01/17

PLEASE REVIEW REVERSE SIDE OF APPLICATION FORM



STATEMENT OF DISCLOSURE AND APPLICANT AGREEMENT AS TO FEES

The fees which must be submitted to the Coastal Resources Management Council are based upon representations made to the Coastal Resources Management Council by the applicant. If after submission of this fee the Coastal Resources Management Council determines that an error has been made either in the applicant's submission or in determining the fee to be paid, the applicant understands that additional fees may be assessed by the Coastal Resources Management Council. These fees must be paid prior to the issuance of any assent by the Coastal Resources Management Council.

The applicant understands the above conditions and agrees to comply with them.


Signature

5/30/2018
Date

Brian Pinsky PO Box 1694
Print Name and Mailing Address Charlestown, RI 02813



Brian Pinsky

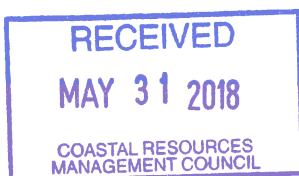
401 Oyster Company, LLC

PO Box 1694. Charlestown, RI 02813

Prepared 05/30/2018

Written Description:

The proposed site will be used to culture and harvest the Eastern Oyster. Two growing methods will be employed on the site, open top cage culture and bottom culture. The site will be marked with 12" standard lobster pot buoys on each of the corners, smaller buoys between corners, reflective tape on all markers, and all painted in green to distinguish my lease from others. The gear will be organized in neat rows from east to west. The proposed site is part of the over wash from East Beach and is a sandy substrate.



Brian Pinsky

401 Oyster Company, LLC

PO Box 1694. Charlestown, RI 02813

Prepared 05/30/2018

Operations Plan

CRMC File # of existing site: 2013-08-013

DEM Aquaculture License: 101

This operations plan is for a commercial aquaculture lease site. The site employs a variety of grow out methods. These include rack and bag, cages, open top trays, and direct bottom plant.

Location: Ninigret Pond, Charlestown. Center of existing site approximately 41 21.550'N, 71 38.965'W.

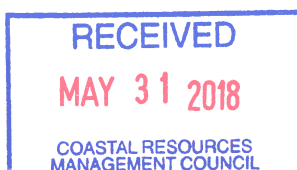
Species Cultured: Eastern Oyster. All biosecurity protocols for seed are followed.

Gear Description: 2x3 and 3x2 wire bag-cages are used on one portion of the site, PVC pipe racks are used on one portion, and open top trays are used on another.

The site is divided into 6 areas. Two bag-cage areas, a PVC pipe rack area, a bottom culture area, and two open top tray areas. These can all be seen on the site plans.

Site Marking: The site will be marked with large green lobster pot buoys on its corners. These will be marked with the CRMC file # and my last name. Between the corners will be small green markers, either 1 or 2 per side depending on the length. All buoys will be tied to cinder blocks with enough line to always be visible. Also, all buoys will include reflective tape for better visibility.

DEM Harvesting Classification at Site: Approved shell fishing waters



Practices and Procedures: After being purchased from an approved seed source, oysters begin in mesh bags in either bag-cages or on PVC pipe racks. They are sorted periodically, and once retained on a 1.5” mesh they are moved to open top trays. The open top trays are picked on a regular basis for market oysters. Any market oysters are immediately iced and then sold to the Ocean State Shellfish Cooperative. Oysters that do not reach market size by year two in the trays are then bottom planted in the bottom plan area. The bottom plant area is periodically harvested by hand or bull rake.

As recommended in the CRMC summary of findings from the preliminary determination meeting, work activities on this site will occur between the hours of 10:00am and 2:00pm from November 1 to March 31.



Brian Pinsky

401 Oyster Company, LLC

PO Box 1694. Charlestown, RI 02813

Prepared 05/30/2018

Section 300.1 Category B Requirements All persons applying for a Category B Assent are required to:

- (1) demonstrate the need for the proposed activity or alteration;

The proposed activity is to expand an existing aquaculture lease site in Ninigret Pond. 401 Oyster Company will use the site to allow the business to continue the growth it has seen over the past 3 years. This expansion will in short time aid in the harvest of more oysters, healthiest stocking densities of the oysters on the farm, and the creation of more jobs on the farm.

- (2) demonstrate that all applicable local zoning ordinances, building codes, flood hazard standards, and all safety codes, fire codes, and environmental requirements have or will be met; local approvals are required for activities as specifically prescribed for nontidal portions of a project in Sections 300.2, 300.3, 300.6, 300.8, 300.9, 300.11, 300.13, 300.15 and 300.17; for projects on state land, the state building official, for the purposes of this section, is the building official,

The proposed activity will not impact the land at all.

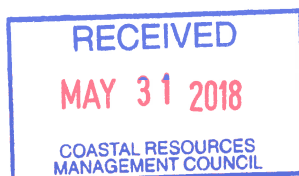
- (3) describe the boundaries of the coastal waters and land area that are anticipated to be affected;

The proposed site is located south of the Ninigret Park kayak launch. The proposed site would extend the existing lease west and also south.

- (4) demonstrate that the alteration or activity will not result in significant impacts on erosion and/or deposition processes along the shore and in tidal waters.

The activity will not result in impacts on erosion or deposition. All activities on the lease site are extremely low impact.

- (5) demonstrate that the alteration or activity will not result in significant impacts on the abundance and diversity of plant and animal life.



The activity will only result in positive impacts on the abundance and diversity of animal life in the area. The activity will provide habitat for a variety of animal species and will also help to negate the negative effects of fertilized lawns and septic systems on or close to the pond.

- (6) demonstrate that the alteration will not unreasonably interfere with, impair, or significantly impact existing public access to, or use of, tidal waters and/or the shore;

The activity will not interfere with public access and use of the area. People will still be able to pass through the area on foot or in a kayak/canoe.

- (7) demonstrate that the alteration will not result in significant impacts to water circulation, flushing, turbidity, and sedimentation;

The proposed activity will not significantly impact circulation, flushing, or sedimentation. It will aid in reducing turbidity.

- (8) demonstrate that there will be no significant deterioration in the quality of the water in the immediate vicinity as defined by DEM;

The water quality will be improved in the immediate vicinity to the proposed site. Through filtering the water for food the oysters will reduce turbidity, remove nitrogen, and build overall biodiversity in the area.

- (9) demonstrate that the alteration or activity will not result in significant impacts to areas of historic and archaeological significance;

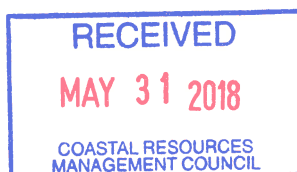
The proposed site is not of historical or archaeological significance.

- (10) demonstrate that the alteration or activity will not result in significant conflicts with water-dependent uses and activities such as recreational boating, fishing, swimming, navigation, and commerce, and;

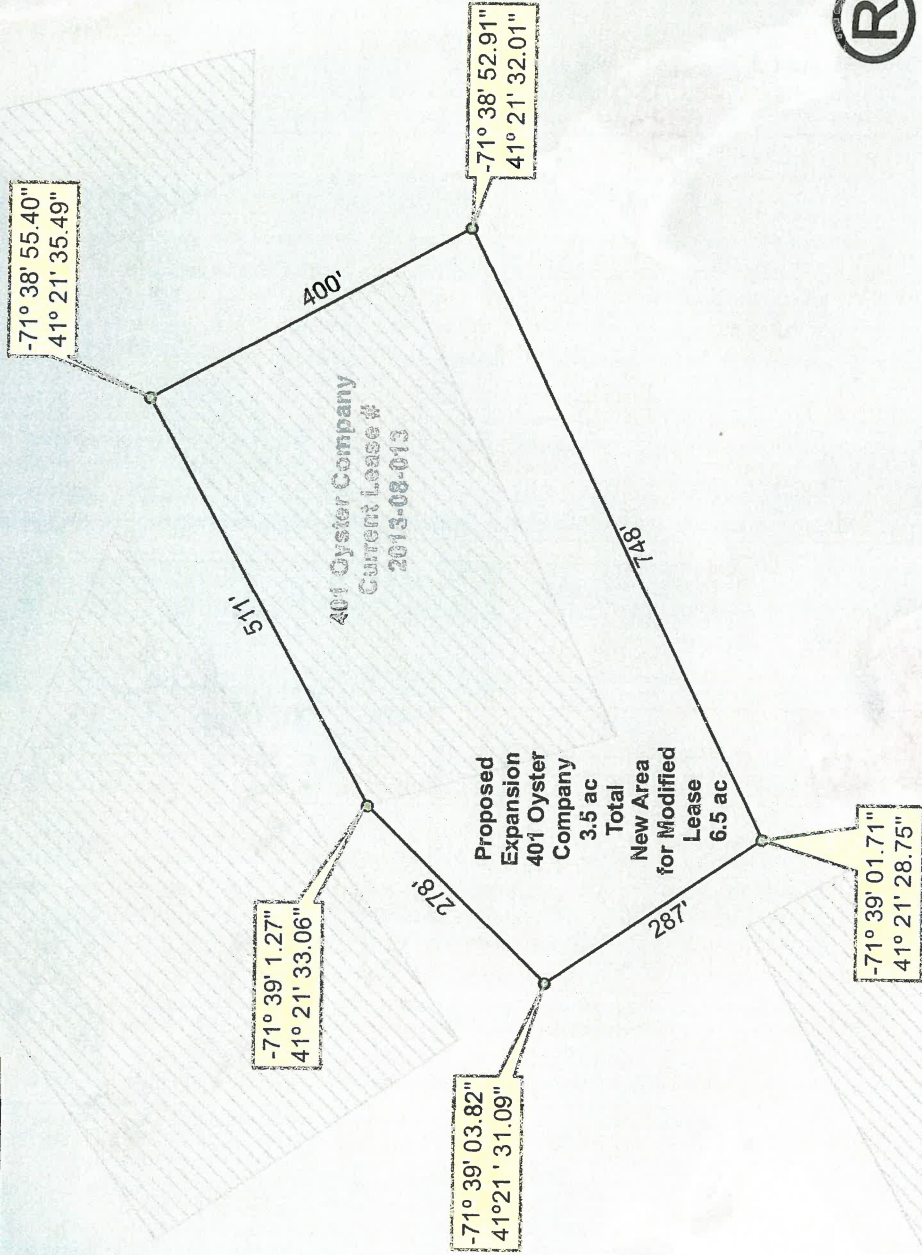
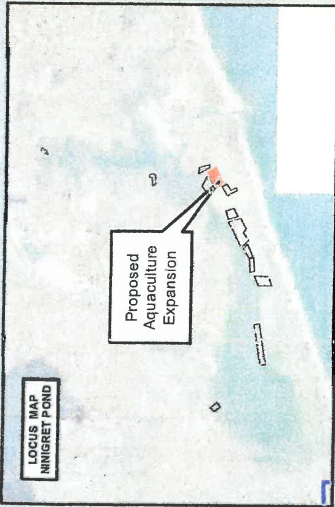
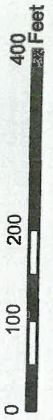
The proposed activity will not have any negative conflicts with water dependent uses and activities or navigation.

- (11) demonstrate that measures have been taken to minimize any adverse scenic impact (see Section 330).

No gear on the proposed site will be visible above the water. The site will be marked on the corners with 12" green lobster pot buoys.



PROPOSED
AQUACULTURE EXPANSION
AND MODIFICATION
401 OYSTER COMPANY
APPLICATION # XXXX-XX-XXX



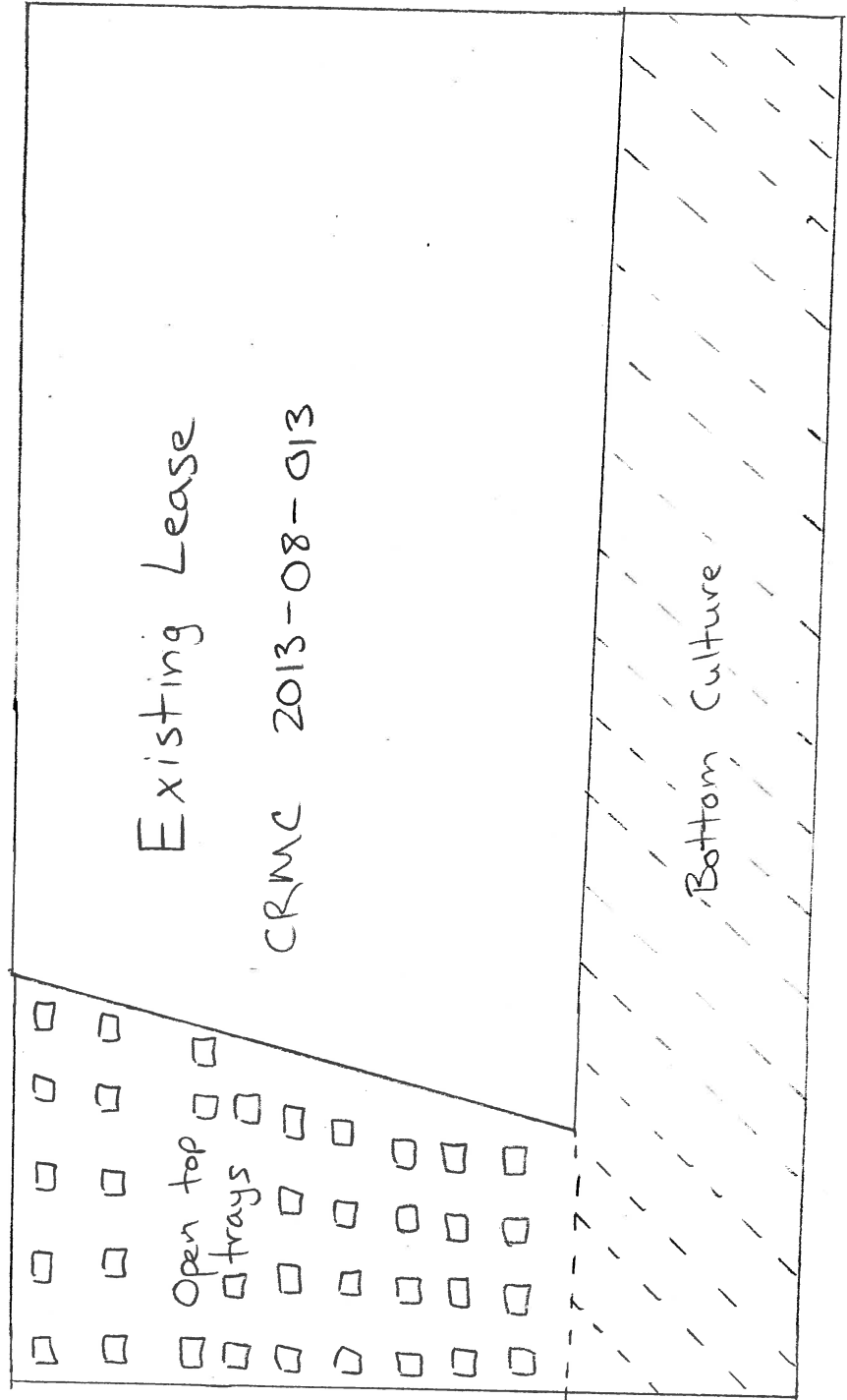
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MAY 31 2018

COASTAL RESOURCES
MANAGEMENT COUNCIL

Brian Pinsky
401 Oyster Company, LLC
Prepared 5/30/2018

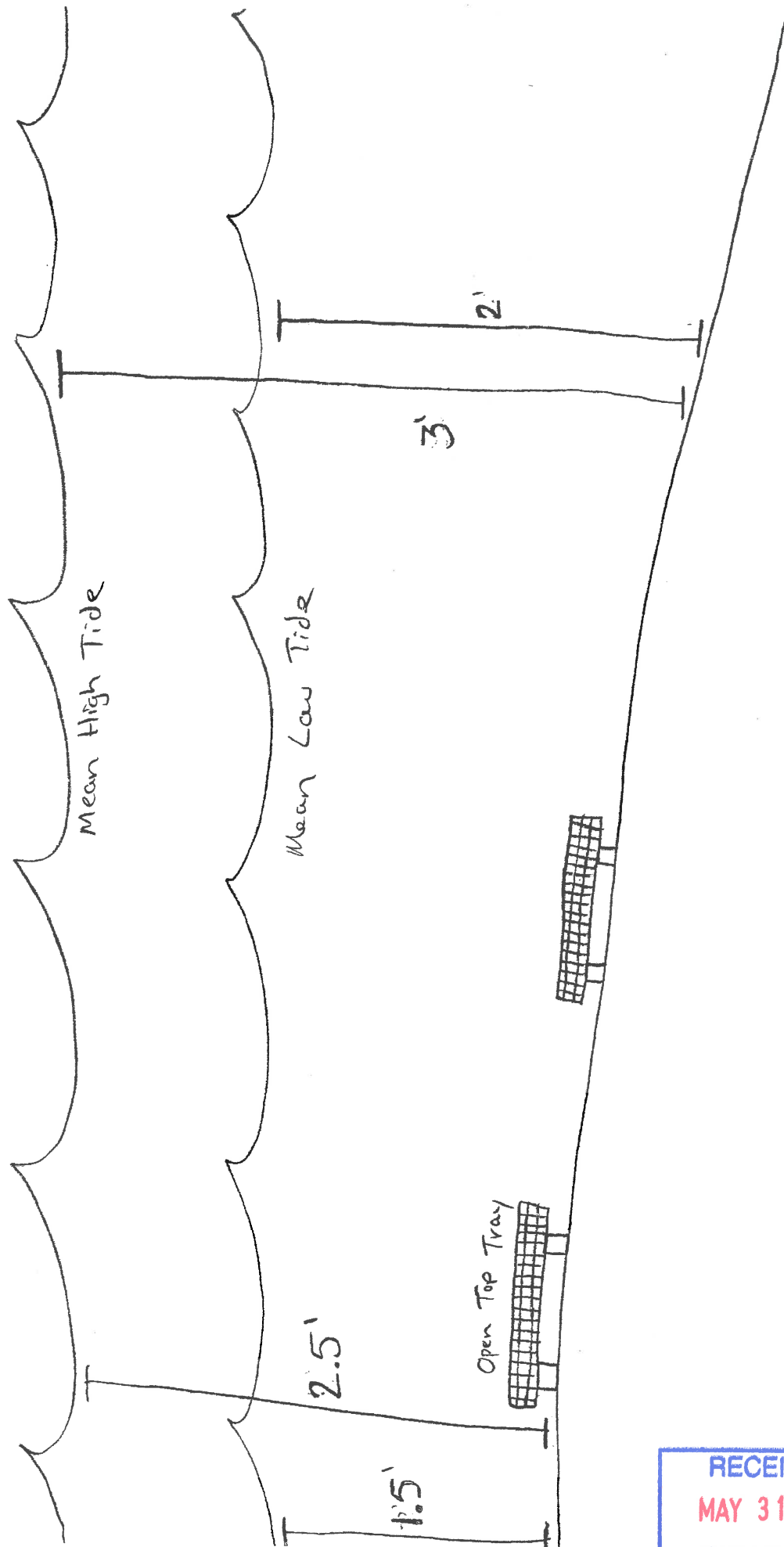
PLAN VIEW



RECEIVED
MAY 31 2018
COASTAL RESOURCES
MANAGEMENT COUNCIL

Brian Pinshky
401 Oyster Company, LLC
Prepared 5/30/2018

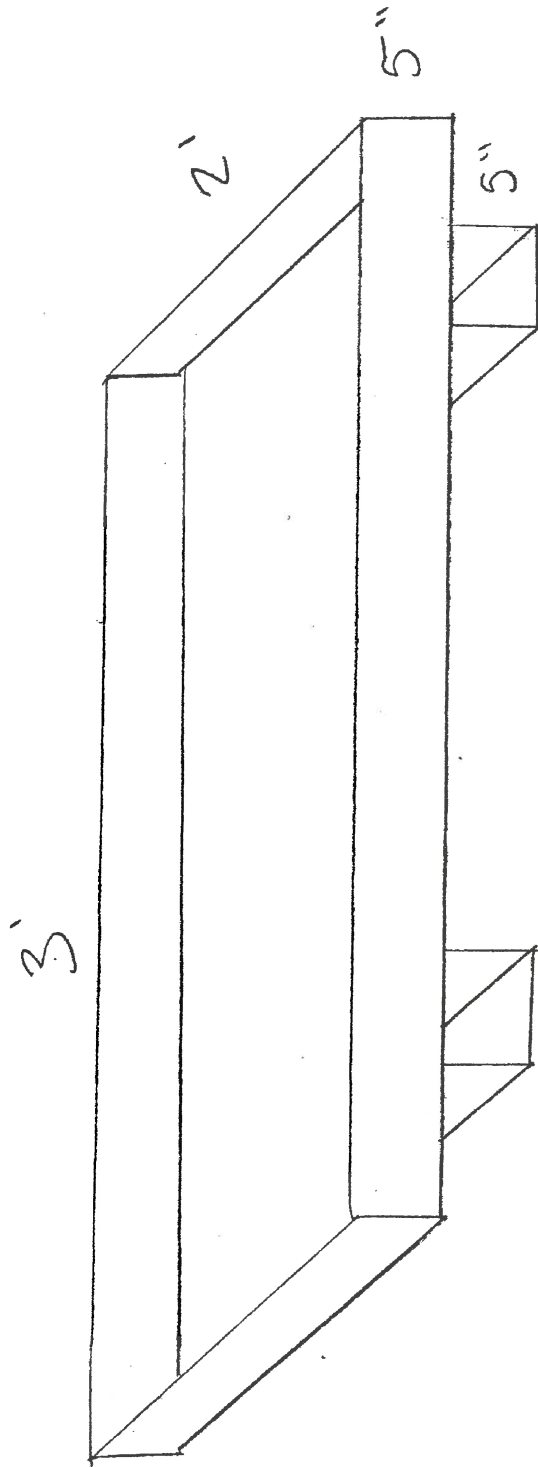
Cross Section View



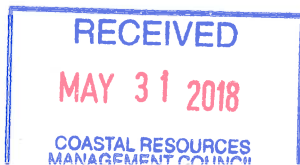
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Gear Detail

Brian Pinsky
401 Oyster Company, LLC
Prepared 5/30/2018



Open Top Tray
- constructed with 1" wire mesh



Looking North



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Looking East



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Looking South



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Looking West



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MAY 31 2018

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

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

PUBLIC NOTICE

File Number: 2018-09-033 Date: October 2, 2018

This office has under consideration the application of:

Daniel Torre & Max Davidson
 243 Colonel John Gardner Road
 Narragansett, RI 02882

for a State of Rhode Island Assent to create and maintain: a three acre oyster farm in the Sakonnet River using floating gear (2foot by 3 foot floating bags).

Project Location:	Sakonnet River
City/Town:	Portsmouth
Plat/Lot:	/
Waterway:	Sakonnet River

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

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

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

If you desire to protest, you must attend the scheduled hearing and give sworn testimony. A notice of the time and place of such hearing will be furnished you as soon as possible after receipt of your request for hearing. If you desire to request a hearing, to receive consideration, it should be in writing (**with your correct mailing address, e-mail address and valid contact number**) and be received at this office on or before November 1, 2018.



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

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

APPLICATION FOR STATE ASSENT

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

Applicant's Name: Daniel Torre		File No (CRMC use only): 2018-09-033												
Mailing Address: 243 Colonel John Gardner Road		Res. Tel. # (609)351-3006												
City/Town: Narragansett	State: RI	Zip Code 02882												
Waterway: Sakonnet River		Bus. Tel. # (609)351-3006												
Est. Project Cost \$		Fee/Costs: \$ \$50												
Longitude/latitude of all corners of Proposed Aquaculture Project Location (preferably in decimal degrees): <table border="0"> <tr> <td>NW</td> <td>NE</td> </tr> <tr> <td>Lon: 71.237900 W</td> <td>Lon: 71.236379 W</td> </tr> <tr> <td>Lat: 41.560671 N</td> <td>Lat: 41.560671 N</td> </tr> <tr> <td>SW</td> <td>SE</td> </tr> <tr> <td>Lon: 71.237900 W</td> <td>Lon: 71.236379 W</td> </tr> <tr> <td>Lat: 41.559804 N</td> <td>Lat: 41.559804 N</td> </tr> </table>			NW	NE	Lon: 71.237900 W	Lon: 71.236379 W	Lat: 41.560671 N	Lat: 41.560671 N	SW	SE	Lon: 71.237900 W	Lon: 71.236379 W	Lat: 41.559804 N	Lat: 41.559804 N
NW	NE													
Lon: 71.237900 W	Lon: 71.236379 W													
Lat: 41.560671 N	Lat: 41.560671 N													
SW	SE													
Lon: 71.237900 W	Lon: 71.236379 W													
Lat: 41.559804 N	Lat: 41.559804 N													

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

Is this application being submitted in response to a coastal violation?

Yes _____ No x

If yes, you must indicate NOV or C&D Number _____

Is this site within a designated historic district? No

Dan Torre

Owner's Signature (sign and print)

STORMTOOLS (<http://www.beachsamp.org/resources/stormtools/>) is a planning tool to help applicants evaluate the impacts of sea level rise and storm surge on their projects. The Council encourages applicants to use STORMTOOLS to help them understand the risk that may be present at their site and make appropriate adjustments to the project design.

NOTE: The applicant acknowledges by evidence of their signature that they have reviewed the Rhode Island Coastal Resources Management Program, and have, where possible, adhered to the policies and standards of the program. Where variances or special exceptions are requested by the applicant, the applicant will be prepared to meet and present testimony on the criteria and burdens of proof for each of these relief provisions. The applicant also acknowledges by evidence of their signature that to the best of their knowledge the information contained in the application is true and valid. If the information provided to the CRMC for this review is inaccurate or did not reveal all necessary information or data, then the permit granted under this application may be found to be null and void. Applicant requires that as a condition to the granting of this assent, members of the CRMC or its staff shall have access to the applicant's property to make on-site inspections to insure compliance with the assent. This application is made under oath and subject to the penalties of perjury.

01/17

PLEASE REVIEW REVERSE SIDE OF APPLICATION FORM



STATEMENT OF DISCLOSURE AND APPLICANT AGREEMENT AS TO FEES

The fees which must be submitted to the Coastal Resources Management Council are based upon representations made to the Coastal Resources Management Council by the applicant. If after submission of this fee the Coastal Resources Management Council determines that an error has been made either in the applicant's submission or in determining the fee to be paid, the applicant understands that additional fees may be assessed by the Coastal Resources Management Council. These fees must be paid prior to the issuance of any assent by the Coastal Resources Management Council.

The applicant understands the above conditions and agrees to comply with them.

Dan Torre

09/10/2018

Signature

Dan Torre
243 Colonel John Gardner Road
Narragansett, RI
02882

Date

Print Name and Mailing Address

Full Application Written Description:

Dan Torre & Max Davidson
243 Colonel John Gardner Road,
Narragansett, Rhode Island 02882
danmtorre@gmail.com
(609) 351-3006
CRMC file number: D2018-02-048
DEM Aquaculture License number: TBD

Overview

Our farm will utilize a floating culture method to commercially culture the eastern oyster (*Crassostrea virginica*) off the West bank of the Sakonnet River, RI. Seed oysters will be purchased from established and approved hatcheries and placed in the field.

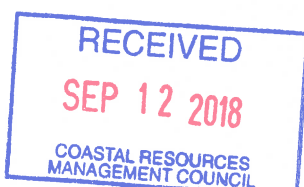
We will set up 10 units of 60, 2' x 3' floating polyethylene cages that are suspended from a floating longline system in the water column, and anchored on both ends, and a mid-point for extra stability using concrete anchors and helical anchors as needed. Bags will vary in mesh size to maximize flow, while ensuring no loss of product.

Floating cages will eliminate the need for mechanized tumblers and power washers due to their inherent design which constantly tumbles the oysters via wave action with intermittent periods of air drying. Oysters will be cleaned and sorted by hand to ensure marketability.

During the warmer summer months, oysters will be feeding at a maximum and cages will be flipped regularly by hand to minimize fouling and tumbled to promote cup shaped oysters that are free of fouling organisms. Additionally oysters farmed in this manner will be more consistent in size, shape, and quality.

During the winter months oyster cages will be sunk to the bottom, by removing both floats. As a result of our oyster cages being sunk during the winter months they will have limited interaction with migratory waterfowl populations. Though no work will be planned during this time, any work that does occur during these winter months (November to April) will be done from 10:00am to 2:00pm.

Impacts:



Oyster aquaculture in this area will have positive implications on throughout many estuarine trophic levels. Our product will be actively removing nitrogen from the water column as it is assimilated into oyster biomass, or deposited in the sediment due to particulate settling. Increased particulate nitrogen to the sediment is thought to be extremely advantageous for restoring eelgrass, as eelgrass can opportunistically uptake nitrogen from the sediment.

Outreach:

As both of us stem from a background in marine science, we are interested in the possibility of setting up a blog to document our work to educate the public on the benefits of oyster aquaculture in estuarine habitats and inform conservation groups of our work.

1.3.1(A).

Permitting the proposed farm will create jobs directly, and indirectly, while helping to meet the increasing demand for oysters. The land adjacent to the farm is a rock and debris filled slope, followed by a 30-foot cliff that shows evidence of erosion. Aquaculture, and especially floating aquaculture has been noted to reduce erosion to adjacent land for a several reasons.

Aquaculture promotes the proliferation of submerged aquatic vegetation, which has obvious advantages in areas subject to erosion. In addition, it's been hypothesized that floating aquaculture reduces wave energy which would ultimately diminish erosion of nearby land.

The closest public land access is south of the site, leading to the Glen Manor House dock. The proposed site is over 400 feet from the dock access and would not impede any recreational activities taking place on or near the dock. Only positive impacts on water quality, sedimentation, turbidity, flushing and water circulation will be observed from the proposed farm. The proposed site is adjacent to an abandoned boathouse, with significant deterioration and misuse, and as such it is unsafe for recreation in the area due to fallen pilings, stray metal piping, etc., Scenic impacts will be minimized by using low profile cages that will only stick out

of the water a fraction of an inch, and by using low profile coloring (black/gray). In addition, the proposed location was chosen in an area which would be unseen by residents.

Floating Gear Guidelines:

During the preliminary determination meeting the following items were identified to be addressed moving forward (my responses in bold):

d. floating gear should be secured with helical (screw) anchors
Due to terrain in this area, it has been suggested to use concrete blocks.

j. floating gear shall not be permitted over or within 25 feet of protected submerged aquatic vegetation (SAV)
The initially proposed lease was adjusted to removed contact with eelgrass, according to a CRMC survey conducted in September of 2018. The current lease site does not interfere with eelgrass or other SAV according to the survey conducted.

l. towns may recommend areas where floating gear should be discouraged
Conversations with Gary Crosby, Portsmouth Town Planner, and Don Wilkinson, manager of Glen House Manor Estate, have not identified any issues with siting floating gear in this area.

m. floating gear should be discouraged within 400 feet along shorelines which have been preserved for conservation, recreation and/or public access through easements, purchase by the state or municipality or are owned by a land trust or conservation organization and have been recognized by the CRMC
No CRMC recognized right-of-way in the area according to CRMC website (see attached figure below). In addition, the proposed lease is over 400 feet from the closest shore access point. The shoreline adjacent to the proposed site presents a hazardous path over old brick and stone rubbish.
<http://www.arcgis.com/home/webmap/viewer.html?webmap=6ab50d9cef0c47a49e894cde4b1d2ef7&extent=-72.5362,40.952,-70.3994,42.1442>



Default | Basemap | Legend

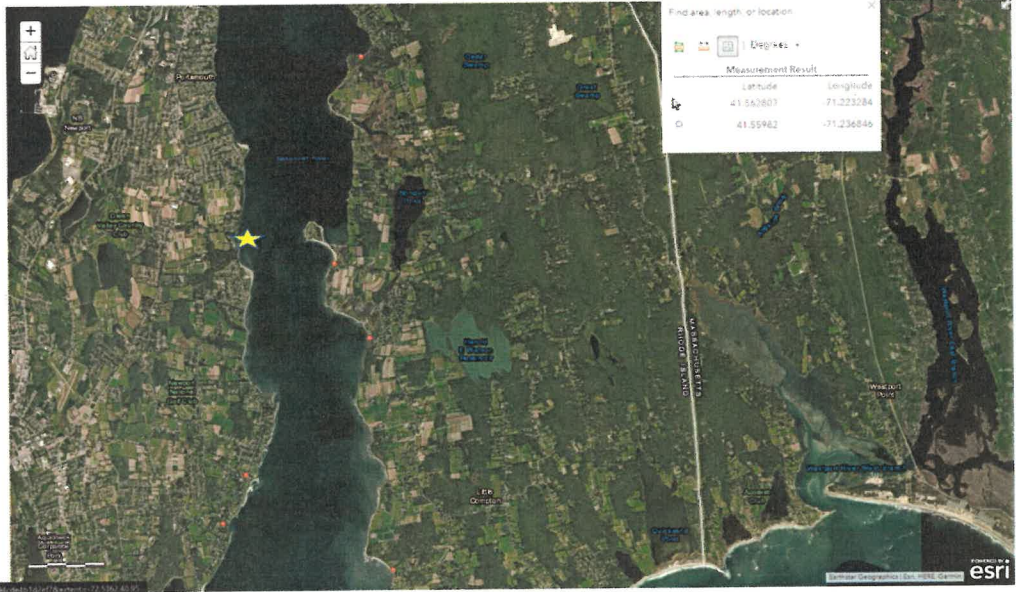
Legend
ROW: All Rights

Share | Print | Measure

Find area, length, or location

Measurement Result

Latitude	Longitude
41.562607	-71.223284
41.55982	-71.236846



Guidance Document for Aquaculture Operations Plans

Anyone conducting aquaculture operations in RI must comply with all applicable CRMC regulations (*Coastal Resources Management Program Section 300.11*) and DEM regulations, as set forth in “*Aquaculture of Marine Species in RI Waters.*” Plans provided to the CRMC will be available for DEM review. Modifications to the permit must follow the CRMC process for modification of assent. Separate, individual plans shall be developed and submitted for each aquaculture site/facility (i.e., one for each lease site, one for each upweller location, etc.); provided, however, that if lease sites are contiguous, or part of a single, unified operation, the overall site can be covered by a single plan. Operations Plans shall address each of the items listed below, as applicable, following the format set forth below.

Note: All plans must be type written. This Microsoft Word document is intended to be used by licensees/operators as a template when preparing plans and may be modified as needed to fit the specific needs of the operator.

1. **Name and mailing address:**

Dan Torre and Max Davidson
243 Colonel John Gardner Road
Narragansett, RI, 02882

2. **CRMC file number:** TBD

3. **DEM Aquaculture License number:** TBD

4. **Type of facility:**

This is a commercial oyster aquaculture lease site where floating cultivation will be used to grow oysters to commercial sale size.

5. **Location of facility:** (include aerial or chart depicting exact location):

- Town: Portsmouth
- Water body: Sakonnet River
- Lat/long coordinates of facility:

6. **Species of shellfish** grown at the facility:

Our farm will utilize a floating culture method to commercially culture the eastern oyster (*Crassostrea virginica*) off the West Bank of the Sakonnet River, RI. Seed oysters will be purchased from established and approved hatcheries following Biosecurity Board protocols.

7. **Types of structures, gear and methods:**

We will set up 10 units of 60, 2' x 3' floating polyethylene cages that are suspended from a floating longline system in the water column, and anchored on both ends, and a mid-point for extra stability using a combination of concrete and helical anchors. Bags will vary in mesh size to maximize flow, while ensuring no loss of product.

8. **Methods and equipment used to identify and mark site:**

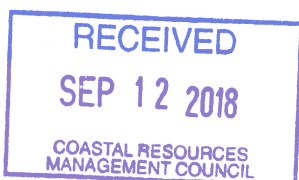
The four corners of the commercial aquaculture site will be marked using the standard 11 inch pot buoys with written notation marking in 3 inch letters “CRMC” including our file number when available.

9. **DEM Shellfish Harvesting Classification** at site.

Lease is located in approved waters outside of known shellfish beds.

10. **Description of practices and procedures used** during the growth, harvest, storage, transportation, and sale of the cultured species.

During the warmer summer months, oysters will be feeding at a maximum and cages will be flipped regularly by hand to minimize fouling and tumbled to promote cup shaped oysters that are free of fouling organisms. Additionally, oysters farmed in this manner will be more consistent



in size, shape, and quality. Oysters will be cleaned and sorted by hand to ensure marketability. Bags will also be rotated to dry bags to reduce biofouling.

11. Procedures for ***maintaining records***:

For operations using seed acquired from out-of-state:

Description of notification, disease certification, and labeling/tagging procedures:

All out of state seed purchases will go through the approval of the Biosecurity Board pending disease certifications from the relevant hatchery.

Disease certification will be conducted when seed is purchased and a pathology report will be collected before sale. Tags will be equipped with company information including name, address, contact information, location of harvest, the intended recipient, and time of harvest,

12. Procedures for ***maintaining records***:

For upwellers/seed-growing facilities in prohibited waters:

This does not apply as we will not be using these

Description of procedures, including frequency of grading (with particular reference to requirements that seed must be removed before it exceeds maximum "seed" size threshold, i.e., <32 mm for oysters, <25 mm for quahogs):

13. Procedures for ***maintaining records***:

For operations using seed from prohibited waters, or operations using shellfish obtained from a third party that originated as seed from prohibited waters:

No seed from prohibited waters will be used.

Detailed description of demarcation methods and record-keeping practices used at the lease site to ensure that animals have been cultured at least twelve (12) months in approved waters, prior to sale, including:

- a. Detailed record-keeping practices specifying date, source, average size, and amount of seed; and
- b. Protocols and associated record keeping for tracking product, e.g., use of tagged/numbered cages and/or bags, use of marked trawls, and/or use of marked, segregated portions of lease sites.

Description of the process for notifying the third party that (a) seed came from prohibited waters, (b) the date of that transfer, and (c) the remaining time needed to maintain the animals in approved waters prior to sale.

Coastal Resources Management Program

Section 300.1

Category B Requirements

All persons applying for a Category B Assent are required to:

(1) demonstrate the need for the proposed activity or alteration;

Permitting the proposed farm will create jobs directly, and indirectly, while helping to meet the increasing demand for oysters required for Rhode Island large tourist attraction. There are no negative impacts to the proposed farm, due to its remote and unused location. On the contrast localized environmental benefits are expected, including increased water quality, biodiversity and abundance, as well as reduced wave energy.

(2) demonstrate that all applicable local zoning ordinances, building codes, flood hazard standards, and all safety codes, fire codes, and environmental requirements have or will be met; local approvals are required for activities as specifically prescribed for nontidal portions of a project in Sections 300.2, 300.3, 300.6, 300.8, 300.9, 300.11, 300.13, 300.15 and 300.17; for projects on state land, the state building official, for the purposes of this section, is the building official,

NA

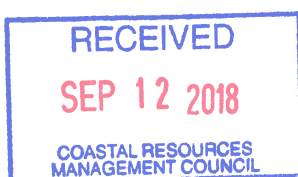
(3) describe the boundaries of the coastal waters and land area that are anticipated to be affected;

The land adjacent to the farm is a rock and debris filled slope, followed by a 30-foot cliff. The lease is proposed over 100 feet from shore.

(4) demonstrate that the alteration or activity will not result in significant impacts on erosion and/or deposition processes along the shore and in tidal waters.

The land adjacent to the farm is a rock and debris filled slope, followed by a 30-foot cliff that shows evidence of erosion. Aquaculture, and especially floating aquaculture has been noted to reduce erosion to adjacent land for a several reasons. Aquaculture promotes the proliferation of submerged aquatic vegetation, which has obvious advantages in areas subject to erosion. In addition, it's been hypothesized that floating aquaculture reduces wave energy which would ultimately diminish erosion of nearby land.

(5) demonstrate that the alteration or activity will not result in significant impacts on the abundance and diversity of plant and animal life.



Oyster aquaculture has been noted to increase water quality, provide habitat and overall increase the abundance and diversity of plant and animal life.

(6) demonstrate that the alteration will not unreasonably interfere with, impair, or significantly impact existing public access to, or use of, tidal waters and/or the shore;

There are no CRMC recognized rights-of-way in the area according to CRMC GIS database. In addition, the proposed lease is over 400 feet from the closest accessible point. The shoreline adjacent to the proposed site presents a hazardous path over old brick, rusted piping and stone rubbish.

(7) demonstrate that the alteration will not result in significant impacts to water circulation, flushing, turbidity, and sedimentation;

Only positive impacts on water quality, circulation, sedimentation, turbidity, flushing and water circulation will be observed from the proposed farm.

(8) demonstrate that there will be no significant deterioration in the quality of the water in the immediate vicinity as defined by DEM;

Only positive impacts on water quality, sedimentation, turbidity, flushing and water circulation will be observed from the proposed farm.

(9) demonstrate that the alteration or activity will not result in significant impacts to areas of historic and archaeological significance;

The proposed site is adjacent to an abandoned boathouse, with significant deterioration and misuse, and as such it is unsafe for recreation in the area due to fallen pilings, stray metal piping, etc., Scenic impacts will be minimized by using low profile cages that will only stick out of the water a fraction of an inch, and by using low profile coloring (black/gray). In addition, the proposed location was chosen in an area which would be unseen by residents, due to the large cliff adjacent to the proposed site.

(10) demonstrate that the alteration or activity will not result in significant conflicts with water-dependent uses and

activities such as recreational boating, fishing, swimming, navigation, and commerce, and;

The proposed site is adjacent to an abandoned boathouse, with significant deterioration and misuse, and as such it is unsafe for recreation in the area due to fallen pilings, stray metal piping, etc.,



Fishing practices were observed over a full season and no conflicts were observed. Commercial fishing practices were observed in the area, but were several hundred feet past the scope of the proposed farm, likely due to insufficient depth to navigate commercial fishing vessels, and lack of efficient fishable habitat.

(11) demonstrate that measures have been taken to minimize any adverse scenic impact (see Section 330). Each topic shall be addressed in writing.

Scenic impacts will be minimized by using low profile cages that will only stick out of the water a fraction of an inch, and by using low profile coloring (black/gray). In addition, the proposed location was chosen in an area which would be unseen by residents.

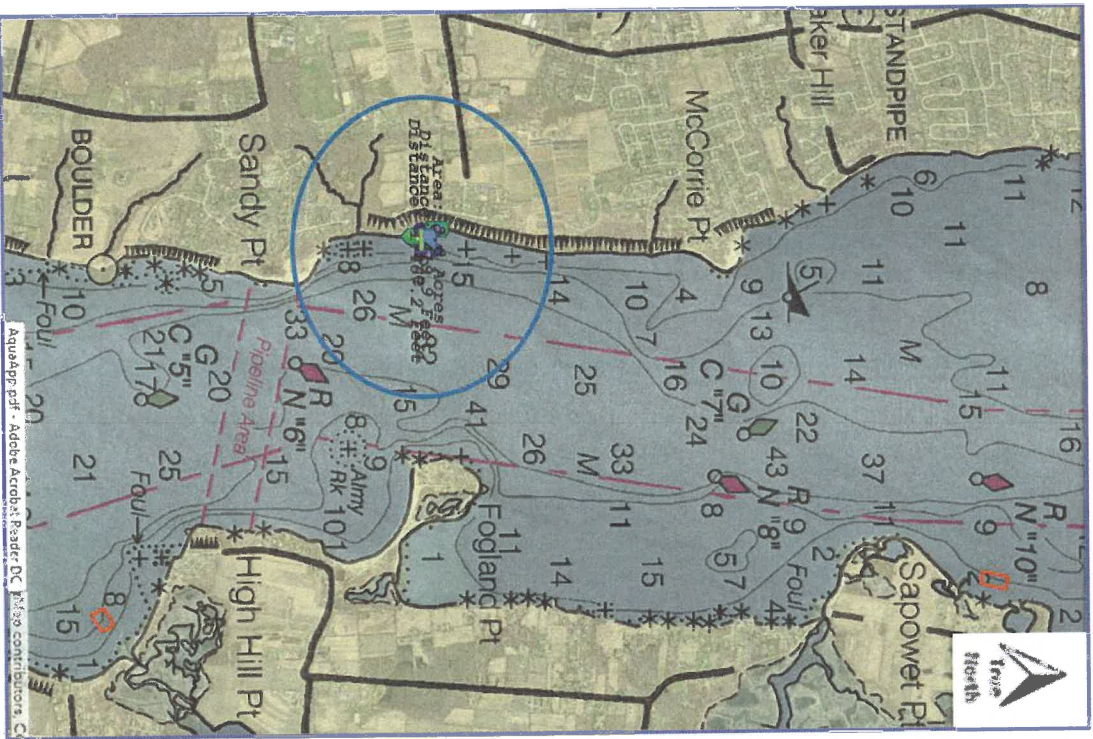


Torre & Davidson Application
Prepared 2/16/2018
Site Location

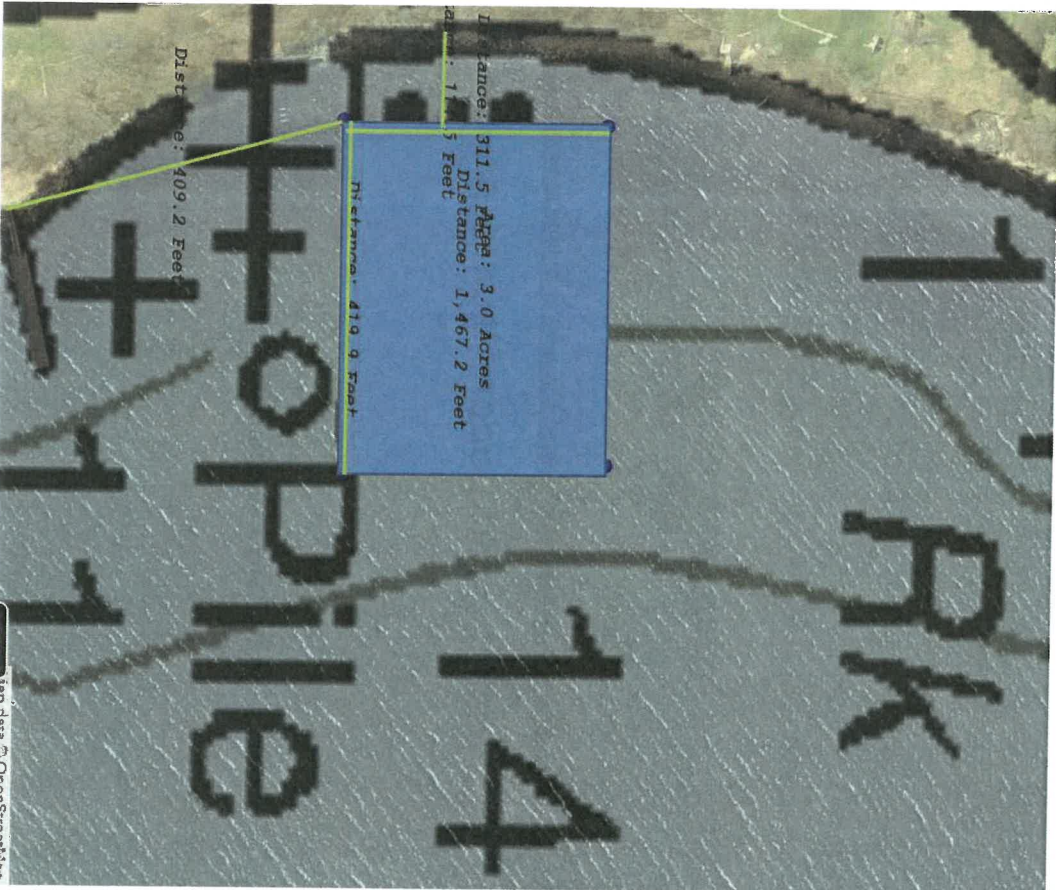


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MANAGEMENT COUNCIL

Torre & Davidson Application
Prepared 2/16/2018
Site Location NOAA

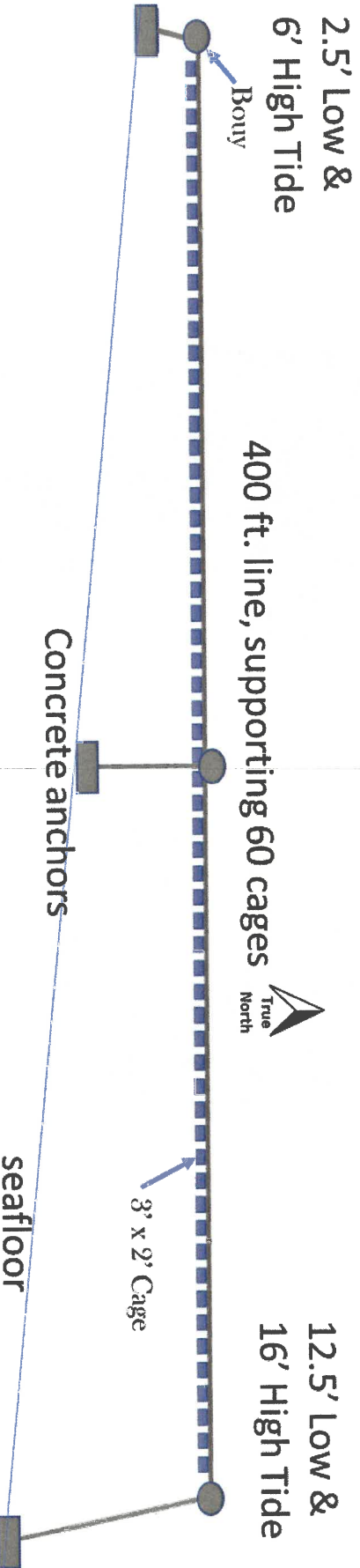


Torre & Davidson Application
Prepared 2/16/2018
Site Plans (aquaculture tool, including distance to shore)



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SEP 12 2018
COASTAL RESOURCES
MANAGEMENT COUNCIL

Example for floating line



10 Floating Lines about 25 ft apart
with 42.5 ft buffer on North and South

420 ft

NW Corner:

Lon: 71.237900 W

Lat: 41.560671 N

NE Corner:

Lon: 71.236379 W

Lat: 41.560638 N

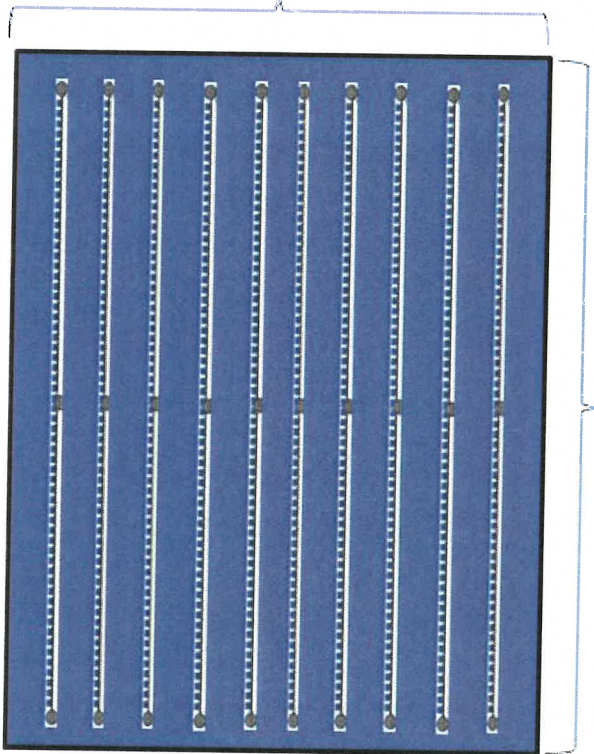
25

310 ft

SW Corner:

Lon: 71.237900 W

Lat: 41.559804 N



SE Corner:

Lon: 71.236379 W

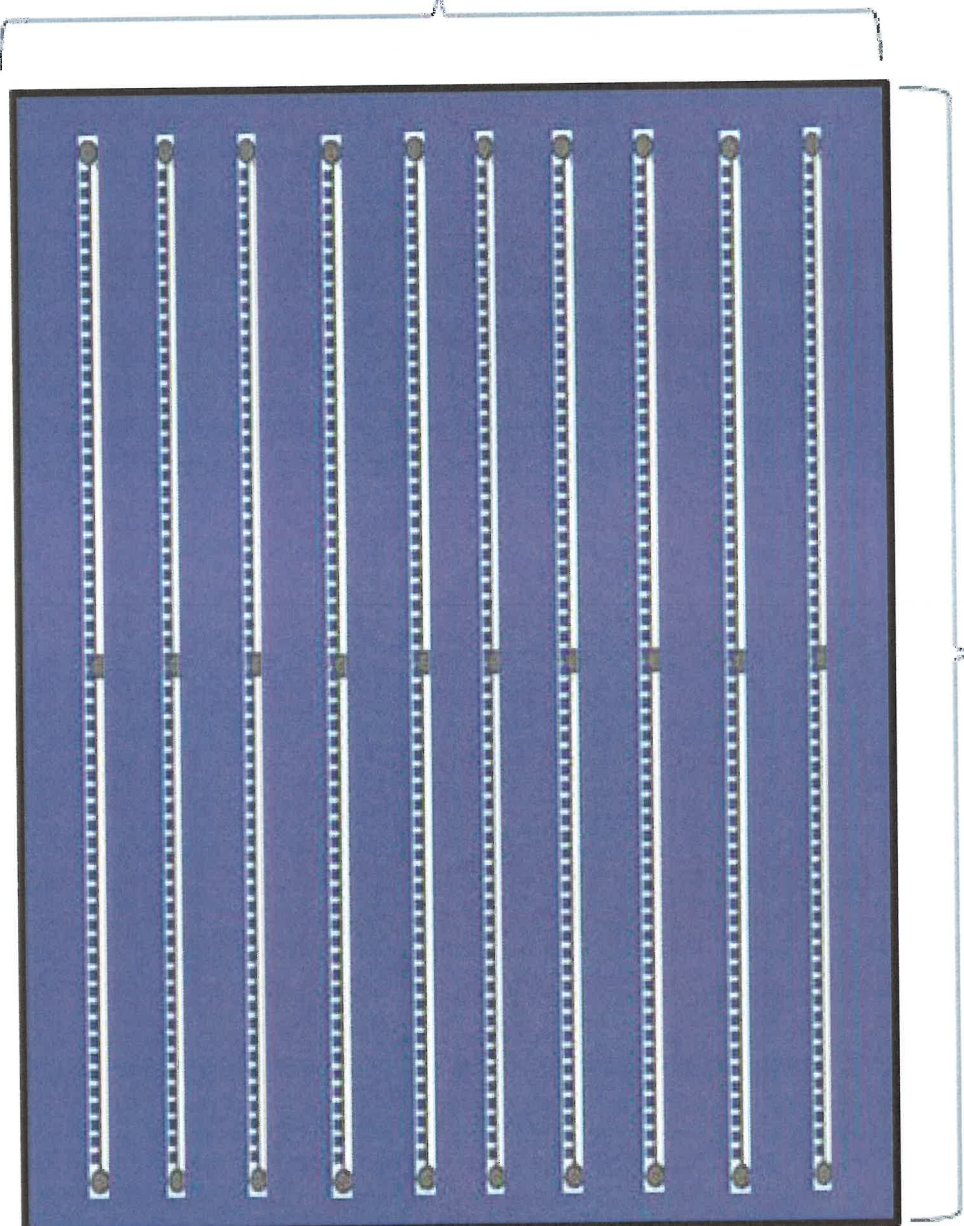
Lat: 41.559804 N

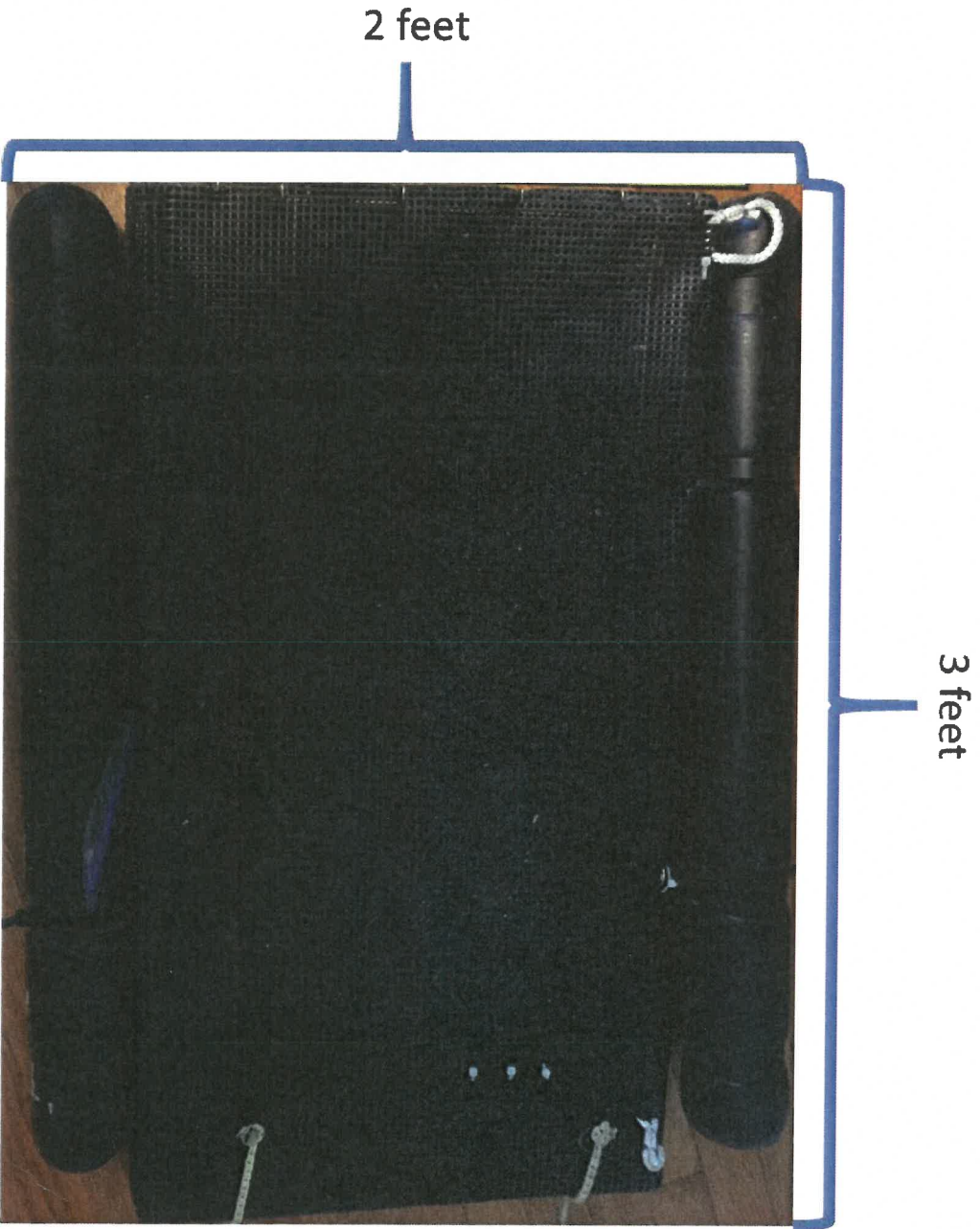
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420 ft

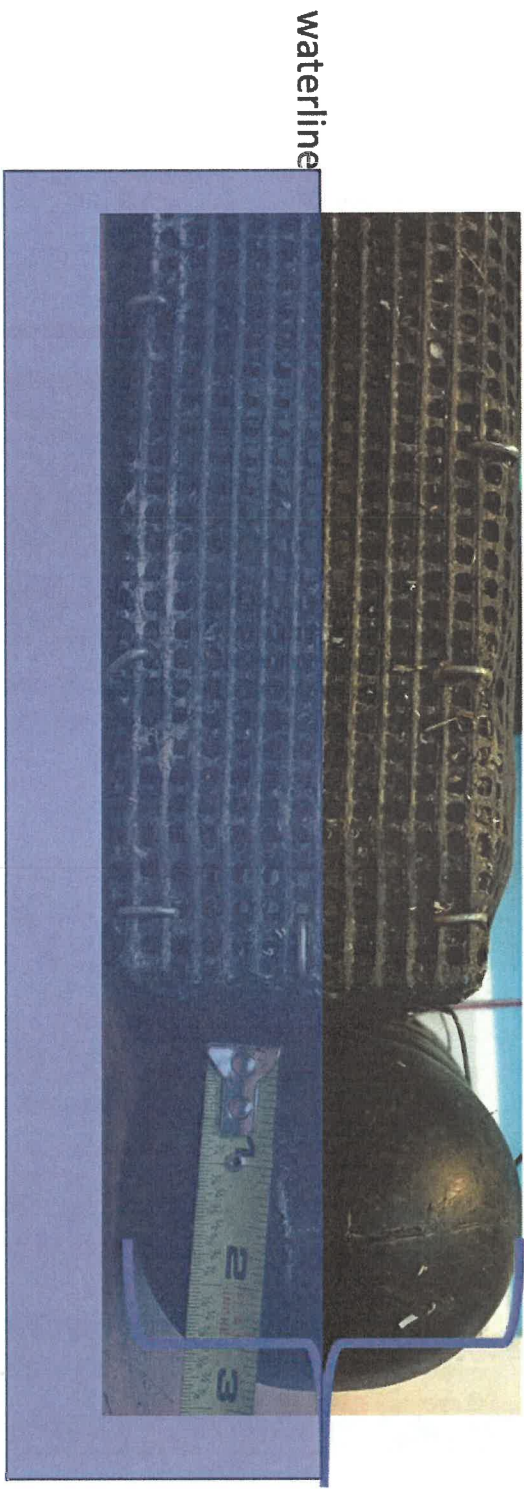
310 ft

25





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3 inch
diameter,
and
height of
cage

waterline



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

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

PUBLIC NOTICE

File Number: 2018-08-071 Date: September 5, 2018

This office has under consideration the application of:

Matthew Griffin
57 Lindley Avenue
North Kingstown, RI 02852

for a State of Rhode Island Assent to create and maintain: a 4.2 acre aquaculture farm for oysters, bay scallops, and kelp using floating, suspended and bottom techniques

Project Location:	Narragansett Bay
City/Town:	North Kingstown
Plat/Lot:	/
Waterway:	Narragansett Bay West Passage

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

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

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

If you desire to protest, you must attend the scheduled hearing and give sworn testimony. A notice of the time and place of such hearing will be furnished you as soon as possible after receipt of your request for hearing. If you desire to request a hearing, to receive consideration, it should be in writing (**with your correct mailing address, e-mail address and valid contact number**) and be received at this office on or before October 5, 2018.



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

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

APPLICATION FOR STATE ASSENT

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

Applicant's Name: Matthew Griffin	File No (CRMC use only): <i>2018-08-071</i>
Mailing Address: <u>57 Lindley Avenue</u>	Res. Tel. # <u>(401) 378-1213</u>
City/Town: North Kingstown State: RI Zip Code 02852	Bus. Tel. # <u>(401) 378-1213</u>
Waterway: West Passage, Narragansett Bay Est. Project Cost \$ 25,000	Fee/Costs: \$ 250.00
Longitude/latitude of all corners of Proposed Aquaculture Project Location (preferably in decimal degrees): 41.542017N, -71.422677W 41.542131N, -71.419537W 41.541442N, -71.422727W 41.541563N, -71.419594W	

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

Commercial Viability Aquaculture Permit: 2016-05-050

Is this application being submitted in response to a coastal violation?

Yes _____ No X

If yes, you must indicate NOV or C&D Number _____

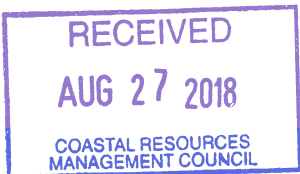
Is this site within a designated historic district? No

Matthew Griffin Matthew Griffin
 Owner's Signature (sign and print)

STORMTOOLS (<http://www.beachsamp.org/resources/stormtools/>) is a planning tool to help applicants evaluate the impacts of sea level rise and storm surge on their projects. The Council encourages applicants to use STORMTOOLS to help them understand the risk that may be present at their site and make appropriate adjustments to the project design.

NOTE: The applicant acknowledges by evidence of their signature that they have reviewed the Rhode Island Coastal Resources Management Program, and have, where possible, adhered to the policies and standards of the program. Where variances or special exceptions are requested by the applicant, the applicant will be prepared to meet and present testimony on the criteria and burdens of proof for each of these relief provisions. The applicant also acknowledges by evidence of their signature that to the best of their knowledge the information contained in the application is true and valid. If the information provided to the CRMC for this review is inaccurate or did not reveal all necessary information or data, then the permit granted under this application may be found to be null and void. Applicant requires that as a condition to the granting of this assent, members of the CRMC or its staff shall have access to the applicant's property to make on-site inspections to insure compliance with the assent. This application is made under oath and subject to the penalties of perjury. 01/17

PLEASE REVIEW REVERSE SIDE OF APPLICATION FORM



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STATEMENT OF DISCLOSURE AND APPLICANT AGREEMENT AS TO FEES

The fees which must be submitted to the Coastal Resources Management Council are based upon representations made to the Coastal Resources Management Council by the applicant. If after submission of this fee the Coastal Resources Management Council determines that an error has been made either in the applicant's submission or in determining the fee to be paid, the applicant understands that additional fees may be assessed by the Coastal Resources Management Council. These fees must be paid prior to the issuance of any assent by the Coastal Resources Management Council.

The applicant understands the above conditions and agrees to comply with them.

Matthew Griffin
Signature

8/27/18
Date

Matthew Griffin 57 Lindley Ave, North Kingstown, RI 02852
Print Name and Mailing Address

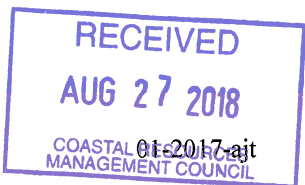
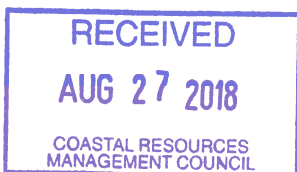


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I. Introduction

Matthew Griffin currently operates a one acre oyster lease in Portsmouth, RI and has worked intimately with the aquaculture and shellfish restoration community in Rhode Island for the past fourteen years with employment in state, federal, academic and non-governmental organizations. In efforts to increase oyster, kelp and bay scallop production I propose to operate a four acre shellfish and sugar kelp lease within the embayment between Rome Point and Green Point, North Kingstown, RI (Figure 1, Table 1). At the closest point, the proposed lease is situated 510 ft. from the shoreline and between two existing aquaculture leases; 397 ft. away from the lease to the north and 550 ft. away from the lease to the south (Figure 1). The proposed lease is sited within an embayment outside of commercial boat traffic and within an area of limited recreational use. The expanse of navigable water between the proposed lease and existing leases to the north and south (397 ft. and 550 ft., respectively) is adequate to allow boat traffic to enter the cove. Substrate below the proposed lease consists of soft mud with no evidence of aquatic vegetation. Impact to the wild harvest shellfish industry will be limited as quahog densities are low ($0.7 \text{ clams m}^{-2} \pm 0.4 \text{ SE}$; Leavitt and Griffin 2013, unpublished data) and natural oyster populations are non-existent within the proposed lease. Matthew Griffin has operated a commercial viability oyster and kelp lease within the footprint of the proposed lease for a period of 15 months. Within the trial period, no conflicts arose with commercial or recreational boat traffic and growing practices of oysters and kelp described herein proved viable.

II. Operational Plan

1. *Name and address:*

Matthew Griffin
57 Lindley Avenue
North Kingstown, RI 02852

2. *CRMC file number:* TBD

3. *DEM aquaculture license number:* 000120

4. *Type of facility:* Commercial lease site

5. *Location of facility:*

North Kingstown, Rhode Island
West passage of Narragansett Bay
Between Rome Point and Green Point



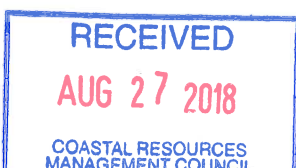
Site Corner	Latitude	Longitude
NW	41.542017°	-71.422677°
SW	41.541442°	-71.422727°
NE	41.542131°	-71.419537°
SE	41.541563°	-71.419594°

Table 1. Coordinates of corner points of proposed lease.

6. *Species grown:*

<i>Crassostrea virginica</i>	Eastern oyster
<i>Argopecten irradians</i>	Bay scallop
<i>Saccharina latissima</i>	Sugar kelp

All shellfish and kelp operations will be conducted in accordance with the Rhode Island Biosecurity board protocols.



7. Gear description:

Oysters: Eastern oysters will be grown in two types of floating cages: OysterGro cages constructed of 4 inch vinyl coated wire mesh with two polyethylene floats fixed to the top and Low Pro Grow cages constructed of 1/2 in. wire mesh with polyethelne floats attached to the top. If possible both cages will be constructed to maintain a maximum of 4 in. above still water, allowing for minimal visual impact. OysterGro Cages are configured with 3 rows of two tiers, capable of holding six 35 in. x 18 in. vexar mesh bags and have outside dimensions of 41 in. x 42 in. x 12 in. (Figure 6). Low Pro Grow cages have outside dimensions of 37 in. x 25 in. x 9 in (Figure 7). Twelve cages will be spliced into a 160 ft. longline (½ in. polysteel), running north to south, and anchored on each end with 5 ft. helical screws (Figures 2 and 3). During the growing season, April to November, cages will be floated on the surface. During winter months, November to April, the majority of the cages, baring those designated for winter harvest, will be submerged to the bottom (Figures 4 and 6). Each floating cage will have a bird deterrent fin to dissuade birds from perching on the gear (Figure 6). Market size oysters will be stocked in bottom cages, consisting of two rows with four tiers each, capable of holding a total of eight 3.3 ft. x 1.7 ft. vexar mesh bags (Figure 8), a minimum of 2 days prior to harvest. A maximum of 43 long lines, spaced 20 ft. apart, totaling 516 cages will be deployed on the lease.

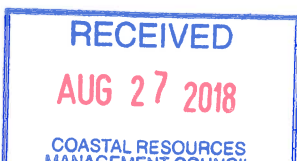
Bay scallops: Bay scallops will be placed in vexar mesh bags with appropriate mesh size, held inside bottom cages. Bottom cages consist of two rows with four tiers each, capable of holding a total of eight 3.3 ft. x 1.7 ft. vexar mesh bags (Figure 8). Ten bottom cages will be attached to a 200 ft longline (Figure 5). Up to 50 bottom cages will be deployed within the lease on the 5 western most trawls (Figure 2).

Note. The applicant is aware of the challenges associated with growing bay scallops in an aquaculture setting. Production of bay scallops will not be the primary focus of this aquaculture site, rather a secondary crop to further personal and communal knowledge of bay scallop culture techniques in New England and to diversify farmed species to mitigate financial loss in the event of a single species failure (i.e. oyster mortality associate with disease). Bay scallop culture on the lease will begin on a small scale and grow dependent upon successful growth and marketability of the product.

Kelp: During winter months (November-May) sugar kelp will be grown on a second longline, above submerged Gro cages, at a depth of 5 feet below the surface (Figure 4). The longlines will utilize the same helical anchors as the Gro cages. Long lines will be suspended in the water column using 5 ft., ½ in. PVC spacers with a six pound concrete block tied into the longline and an 11 inch lobster buoy providing floatation (Figure 7). Spacers will be deployed every 50 ft. along the kelp line. After harvest in April, the kelp long line and buoys will be removed and the Oyster Gro cages will be floated to the surface.

8. Identifying markers:

Each of the four corners of the site will be marked with a 12 in. buoy and a 5 ft. highflyer (radar reflector). Buoy color will be chosen in coordination with the North Kingstown Harbor Commission and CRMC to allow for differentiation from existing leases in the area. The poles of the high flyer will be wrapped in reflective tape. The CRMC assent number will be printed on each of the four corner markers.



The north and south sides of the lease will be marked with a unique system to provide clear marking for boating access to the shoreline (e.g. red buoys on the south side, green buoys on the north side). The marking system to allow for clear boating access to the shoreline will be developed in coordination with the North Kingstown Harbor Commission and CRMC.

9. *DEM Shellfish Harvesting Classification:*

Narragansett Bay, West Passage, 3w - Approved waters.

10. *Description of practices and procedures:*

10a. *Seed Source and Husbandry*

Oysters: Oyster seed will be sourced from a New England based commercial hatchery or oyster farm (e.g. Mook Sea Farms, Muscongus Bay Aquaculture, Fisher Island Oyster Farm, Aquaculture Research Corporation), with an approved pathology report. Determination of exact seed source will be dependent upon hatchery supply. The CRMC Aquaculture Coordinator will be notified of seed source and provided a corresponding pathology report (if source is outside the biosecurity zone) at least five days in advance of moving any seed onto the farm. Seed will be purchased with a minimum valve length of 4 mm and grown in Oyster Gro cages until market size is achieved. Market oysters will be held in bottom cages prior to harvest. Throughout the growing season oysters will be sorted according to size and density of oysters in bags will be thinned to mitigate overcrowding and food competition. Floating gear with juvenile oysters will be submerged during the winter months (November-April). Number of seed purchased annually will be dependent upon available space on the farm. Maximum annual oyster yield for the proposed lease is 275,000 individuals.

Bay Scallops: Scallop seed will be sourced from a New England based commercial hatchery or oyster farm (e.g. Mook Sea Farms, Muscongus Bay Aquaculture, Fisher Island Oyster Farm, Aquaculture Research Corporation), with an approved health certificate. Determination of exact seed source will be dependent upon hatchery supply. The CRMC Aquaculture Coordinator will be notified of seed source and provided a corresponding pathology report at least five days in advance of moving any seed onto the farm. Seed will be purchased with a minimum valve length of 4 mm and grown in bottom cages as described in section II, 7. Throughout the growing season scallops will be sorted according to size and density of oysters in bags will be thinned to mitigate overcrowding and food competition. Number of seed purchased annually will be dependent upon available space on the farm. Maximum annual scallop yield for the proposed lease is 50,000 individuals.

Kelp: Kelp will be purchased on seeded spools from: Matha's Vinyard Shellfish Group, Woods Hole Oceanographic Institution or Walrus and Carpenter Oysters. Reproductively active kelp tissue will be harvested from Rhode Island water and provided to the hatchery for spore production. The CRMC Aquaculture Coordinator will be notified at least five days prior to planting kelp and provided required documentation if needed. Kelp will be planted on the longlines in November, timing dependent upon water temperature (<50°F), and grown until March or April. Growing kelp does not require maintenance of shoot density or anti-fouling practices, therefore, husbandry will be limited to making sure lines are secure and correctly positioned in the water column.



10b. Gear Maintenance

Oysters: To mitigate fouling, floating cages will be turned upside down on the integrated floats, twice per month, allowing the oysters, bags and cages to air dry for 24 hours. Oyster will be hand sieved on site. Anchors and longlines will be checked via SCUBA annually to insure cages are secure. Fouled vexar bags will be replaced with clean ones and stored onshore at the home residence of this applicant. No onsite gear storage will be employed.

Bay Scallops: Fouled bags will be removed from the site, to air dry on shore at the home residence of this applicant, and replaced with clean bags. Cages will not need regular fouling control as they will be constructed of 4 in. wire mesh allowing adequate flow when fouled. If necessary in-situ hand scrubbing of cages will be employed.

Kelp: Growing kelp does not require maintenance of shoot density or anti-fouling practices, therefore, husbandry will be limited to making sure lines are secure and correctly positioned in the water column.

10c. Harvest, Storage and Transportation

All handling of shellfish to be consumed will follow the recommendations/regulations set forth by RIDEM (Rhode Island Marine Fisheries Regulations, Part IV Shellfish) and in accordance with the RIDEM Vibrio Management Plan, as instituted 1 July 2014. All handling of kelp to be consumed will follow recommendations/regulations set forth by regulating agencies as protocols are developed. All shellfish/kelp movement and sales will be recorded with appropriate tagging as mandated by the RI shellfish regulations and those records will be maintained by Matthew Griffin and will be available for review upon request. Shellfish and kelp will be sold to wholesale dealers for public consumption. Market size oysters will be placed in bottom cages a minimum of 2 days prior to harvest for public consumption.

10d. Time table of work performed.

Farm work described herein will take place 3-5 days per week, between sunrise and sunset, during the shellfish growing season (April – November). Kelp work on the farm will be limited to 1 day a week (November – May) to assure gear is properly in place.

11. Procedures for maintaining records for operations using seed acquired from out-of-state. Description of notification, disease certification, and labeling/tagging of product.

Records of seed purchases will be maintained by Matthew Griffin for review by CRMC upon request. CRMC will be notified prior to seed purchases and supplied with the appropriate documentation including: the origin of the seed (hatchery name and location), spawn date, number purchased, date of delivery and pathology report(s).

12. Procedures for maintaining records for upwellers in prohibited waters.

Not applicable to this application.

13. Procedures for maintaining records for operations using seed from prohibited waters.

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Seed purchased from a third party that originated from prohibited waters will be kept separate from other cohorts by marking bags with red tags. Tags will contain the date the seed was purchased to insure sales do not occur prior to 6 months of growth in approved waters of the lease. Seed which originated in prohibited waters will not be mixed with seed originating from approved waters.

III. Written responses to CRMP section 300.1

1. Demonstrate the need for the proposed activity or alteration:

Matthew Griffin is currently operating a one acre shellfish lease. The size of the current lease constrains business growth from sales of aquaculture products. Obtaining a lease of four acres, as proposed herein, would allow the applicant to build a viable business and provide local sustainable aquaculture products to the greater community of New England.

2. Demonstrate that all applicable local zoning ordinance, building codes, flood hazard standards, and all safety codes, fire codes, and environmental requirements have or will be met.

Permits required for the proposed lease will be obtained through RI CRMC pending approval of subsequent applications.

3. Describe the boundaries of the coastal waters and land areas that are anticipated to be affected.

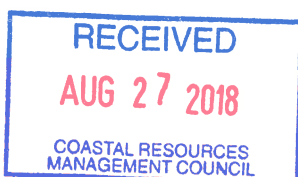
The proposed lease is located between Rome Pt. and Green Pt. in the west passage of Narragansett Bay. The lease is bordered by the Chafee preserve to the west and cannot be seen, without aid of optical magnification, by any residential domiciles or land based businesses. Land abutting the lease (510 ft. from the closest point) is coarse sand beach and upland forest. The proposed lease is sited between two existing aquaculture leases; 397 ft. away from the lease to the north and 550 ft. away from the lease to the south. The west passage of Narragansett Bay is to the east of the proposed site. See Figure 1.

4. Demonstrate that the alteration or activity will not result in significant impacts on erosion and/or deposition process along the shore and tidal waters.

Impacts of erosion and or deposition are not applicable to this project as the gear used will have little effect on the hydrodynamics in the area.

5. Demonstrate that the alteration or activity will not result in significant impacts on the abundance and diversity of plant and animal life.

The proposed lease will not result in significant impacts on the abundance and diversity of plant and animal life. Eastern oysters play a critical ecological role within our coastal environment by providing complex biogenic structures, which increase species density, biomass and richness over nearby mud habitats (Tolley and Volety 2005, Manley *et al.* 2010, Abeels *et al.* 2012, Quan *et al.* 2012). Shellfish and associated culture gear serve as essential fish habitat (Coen *et al.* 1999, Peterson *et al.* 2003, Forrester 2007); ultimately increasing productivity within our coastal waters (Grabowski *et al.* 2004, Grabowski *et al.* 2008). Sugar kelp provides habitat for sessile and mobile species. There is no submerged aquatic vegetation on the proposed lease.



6. *Demonstrate that the alteration will not unreasonably interfere with, impair, or significantly impact existing public access to, or use of, tidal waters and/or the shore.*

There will be no interference with public access or use of tidal waters and or the shore. The proposed lease is sited in 14 ft. of water at mean low tide. The closest portion of lease to the shoreline is 512 ft. Trawl lines with gear will be spaced 20 ft. apart allowing adequate room to navigate watercraft between gear.

7. *Demonstrate that the alteration will not result in significant impacts to water circulation, flushing, turbidity, and sedimentation.*

Impacts of water circulation, flushing, turbidity, and sedimentation are not applicable to this project as the gear used will have little effect on the hydrodynamics in the area.

8. *Demonstrate that there will be no significant deterioration in the quality of water in the immediate vicinity as defined by DEM.*

The proposed lease will have no negative effect on water quality. Oysters are capable of benthic-pelagic coupling by filtering phytoplankton and seston and transporting this organic matter to the benthos, thus supplementing benthic food webs and accelerating nutrient cycling within the system (Dame 1993, Smaal and Prins 1993, Pietros and Rice 2003). Through filter feeding activities, oysters increase water clarity, reduce turbidity (Cloern 1982, Newell 1988) as well as reduce carbon, nitrogen, (Hargis and Haven 1999) and pollutants from the water column (Tolley *et al.* 2005).

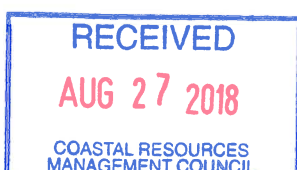
9. *Demonstrate that the alteration or activity will not result in significant impacts to areas of historic archeological significance.*

There is no known historic archeological significance in the propose lease.

10. *Demonstrate that the alteration or activity will not result in significant conflicts with water-dependent uses and activity such as recreational boating, fishing, swimming, navigation and commerce.*

The cove between Rome Pt. and Green Pt. is lightly used by recreational boaters, whom anchor along the shoreline. The lease is a long rectangle with the short axis (208 ft. in length) 510 ft. away from the shoreline (Figures 1 and 2). The expanse of water between the shoreline and the short axis of the lease is 9 ft. at mean low tide allowing boats to anchor or traverse between the shoreline and oyster culture gear. The expanse of navigable water between the proposed lease and existing lease to the north and south (397 ft. and 550 ft., respectively) is adequate to allow boat traffic to enter the cove. Total access to the cove will be reduced by only 208 ft. as the proposed lease parallels a current aquaculture lease (Figure 1). The north and south sides of the lease will be marked with a unique system, as decided by the North Kingstown Harbor Commission and CRMC, to provide clear marking for boating access to the shoreline (e.g. red buoys on the south side, green buoys on the north side). Longlines, as described in section II 7, will be 20 ft. apart, allowing watercraft to navigate between gear.

Swimming in the cove occurs from recreational boats anchored along the shoreline or wading from the beach. The location of the proposed lease will not impede swimming.



The proposed lease is outside of commercial boat traffic routes.

Impact to the wild harvest shellfish industry and recreational shell fishermen will be limited as quahog densities are low ($0.7 \text{ clams m}^{-2} \pm 0.4 \text{ SE}$; Leavitt and Griffin 2013, unpublished data) and natural oyster populations are non-existent within the proposed lease. Within the one year of operating the commercial viability lease zero shellfishing was witnessed in the area of the proposed lease.

Impacts to recreational fin fishermen will be limited as the benthic substrate is soft mud providing little habitat for resident fish or foraging pelagics. Rock reefs, providing habitat and foraging for game fish, exist to the north and south along the edges of the cove. Access to the reefs will not be impaired by the proposed lease. Shellfish aquaculture provides structure and habitat and has shown to increase local biodiversity and fish production (See section III, 5). Within the one year of operating the commercial viability lease zero fin fishing was witnessed in the area of the proposed lease.

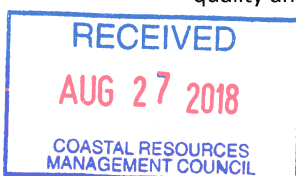
Commercial shellfish lease holders to the north and south of the proposed site were in support of the commercial viability lease and the proposal herein.

11. Demonstrate that measures have been taken to minimize any adverse scenic impacts.

The proposed lease is bordered by the Chafee preserve to the west and cannot be seen, without aid of optical magnification, by any residential domiciles or land based businesses. The configuration of the lease (208 ft. by 858 ft.) was designed to parallel, with a gap of 397 ft., an existing aquaculture lease to allow proposed shellfish infrastructure to blend in with already existing shellfish infrastructure. The gear in the proposed lease will not deviate from gear in the existing lease to the north, as the lease to north is permitted for Oyster Gro cages. The proposed lease will be laid out in a grid pattern using a differential GPS to provide an orderly configuration of gear.

IV. References

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- Quan, W., Humphries, A.T., Shi, L. and Chen, Y. 2012. Determination of trophic transfer at a created intertidal oyster (*Crassostrea arikensis*) reef in the Yangtze River estuary using stable isotope analysis. *Estuaries and Coasts*. 35(1):109-120.
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- Tolley, G.S. and Volety, A.K. 2005. The role of oysters in habitat use of oyster reefs by resident fishes and decapod crustaceans. *Journal of Shellfish Research*. 24(4): 1007-1012.

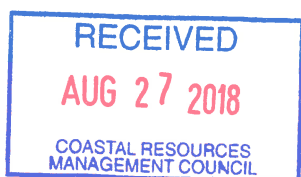


Figure 1. Site location.

Proposed lease is located 510 feet from the shoreline at the closest point. 397 feet and 550 feet of navigable water remains between proposed lease and existing lease to the north and south, respectively.

Location map
Proposed Aquaculture lease
Species: oysters, bay scallops, kelp

Proposed lease area
 Existing aquaculture lease
 14 ft. MLW in proposed lease

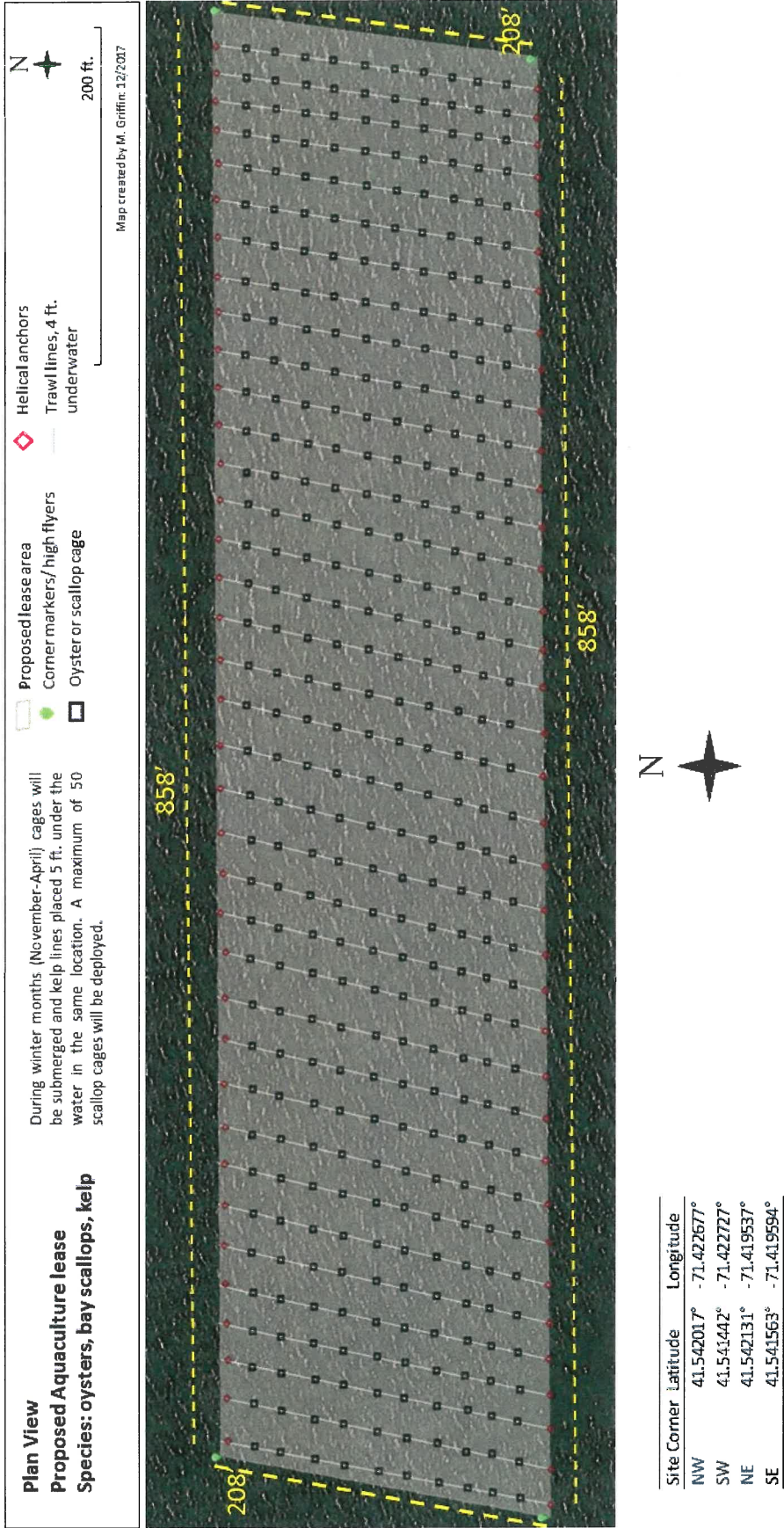
Site Corner	Latitude	Longitude
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SE	41.541563°	-71.419594°

Map created by M. Griffin: 6/2018



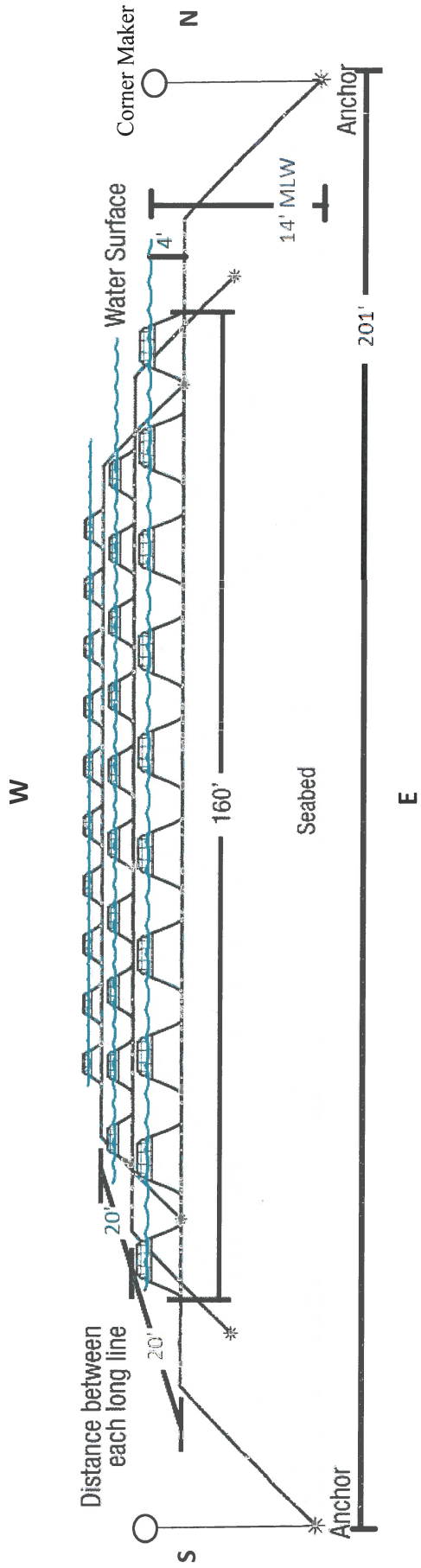
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Figure 2. Plan view. Scallop cages will occupy the 5 western most trawls. Oyster bottom cages will be deployed in trawls 6 and 7 from the western boundary. Water depth is 14 feet at MLW.



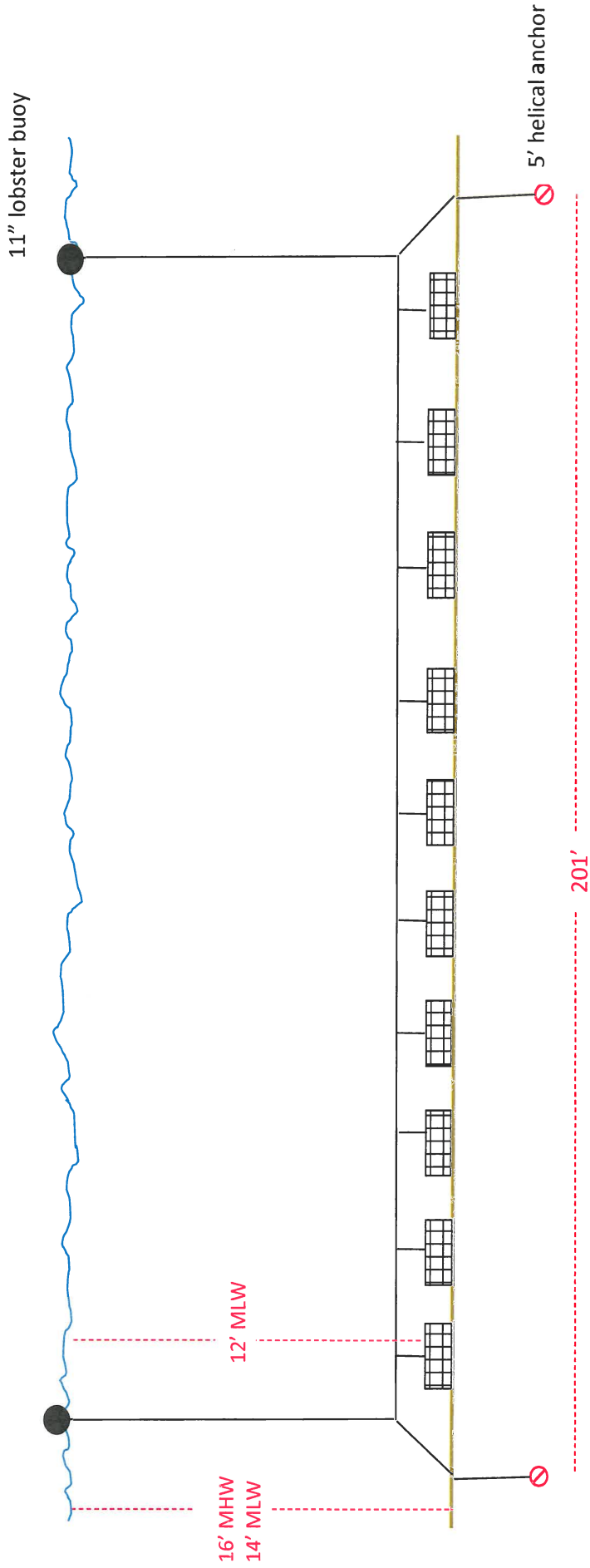
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Figure 3. Cross section of the eastern most part of the proposed lease depicting oyster cages while at the water's surface (April-November). Trawl lines continue west for a total of 43 trawls encompassing 858 ft. along the east-west axis (see figure 2). Figure created by M. Griffin - modified from Oyster Gro, 12/2017.



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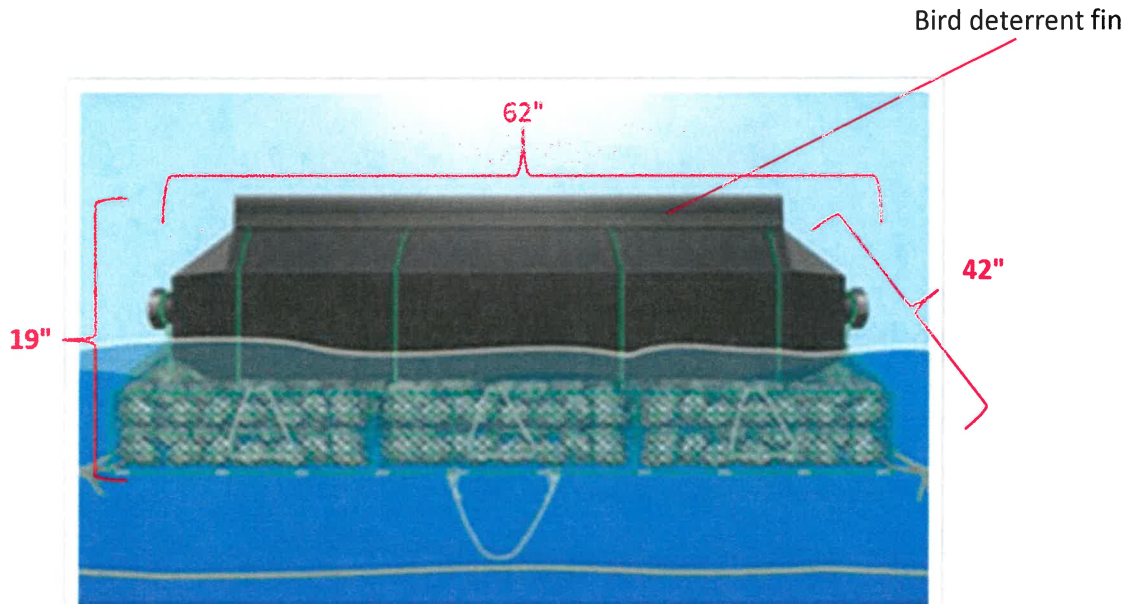
Figure 5. Cross section of scallop cages and oyster bottom cages on proposed lease. Scallop cages will be placed on the 5 western most trawls when deployed. Oyster bottom cages will be deployed on trawls 6 and 7 from the western boundary. Figure created by M. Griffin 12/2017.



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Figure 6. Floating oyster cage diagrams. Floats will be modified to maintain a maximum of 4" above still water. Images created by M. Griffin and adapted from Oyster Gro & Ketchum Traps 12/2017.

a. OysterGro



b. Low Pro Grow diagram

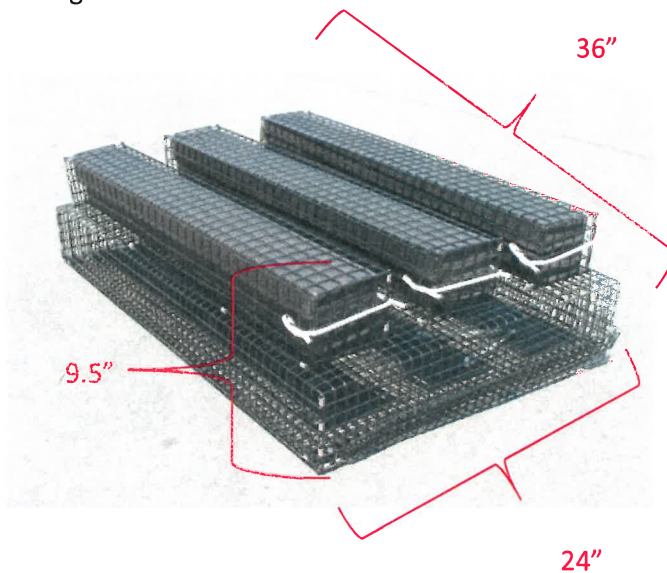
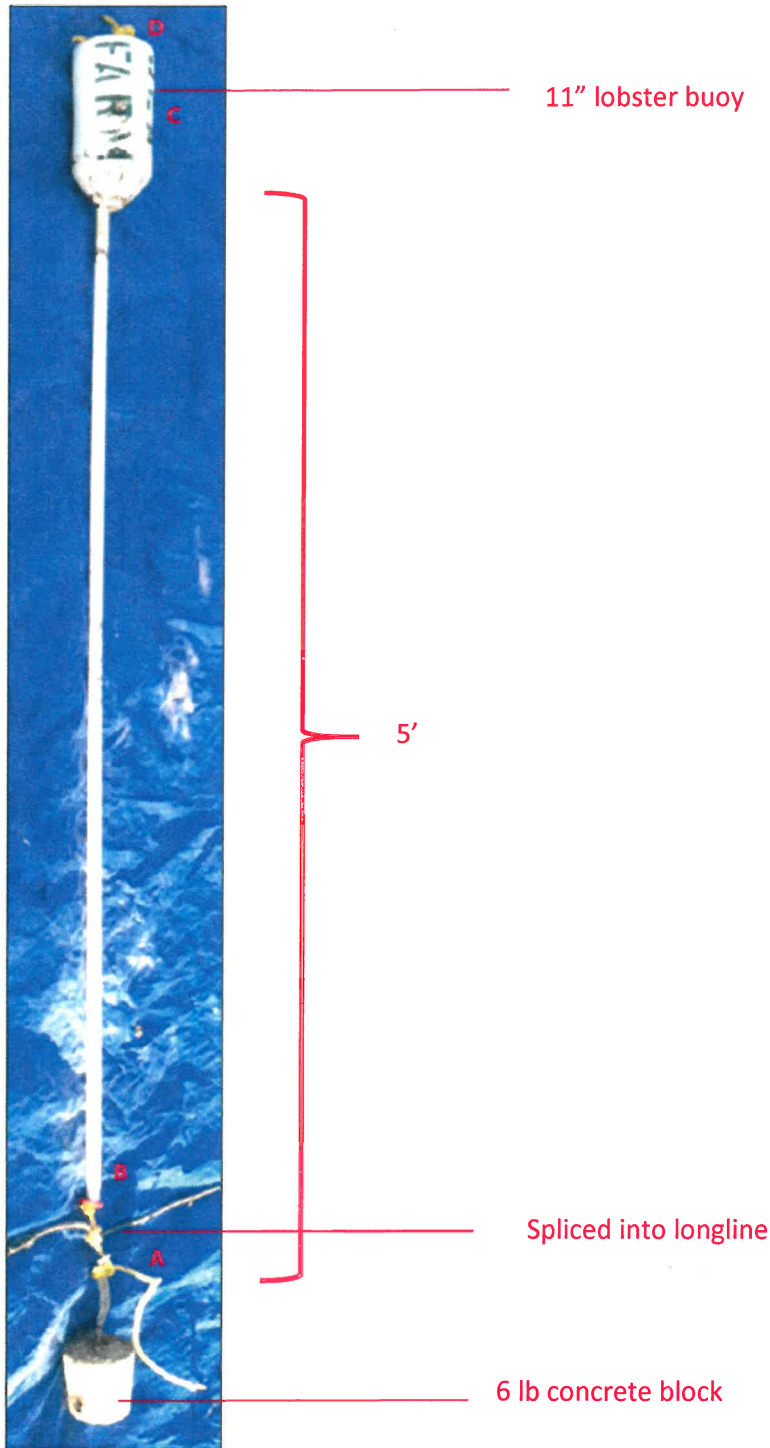


Figure 7. Kelp long line spacer. Three spacers will be placed along each kelp line at 50 ft. intervals to hold the line 5 ft. below the water surface. *Image created by M. Griffin and adapted from (Kelp Farming Manual, A Guide to the Process, Techniques, and Equipment for Farming Kelp in New England Waters) 12/2017.*



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Figure 8. Scallop cages and oyster bottom cages. Cages will be placed on a 200' longline and sit on the seafloor. Images created by M. Griffin 12/2017.

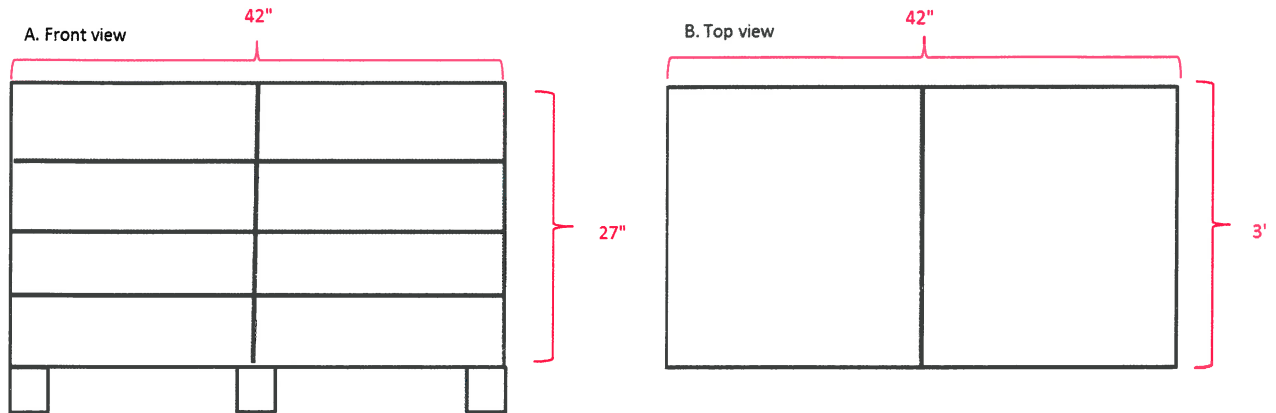
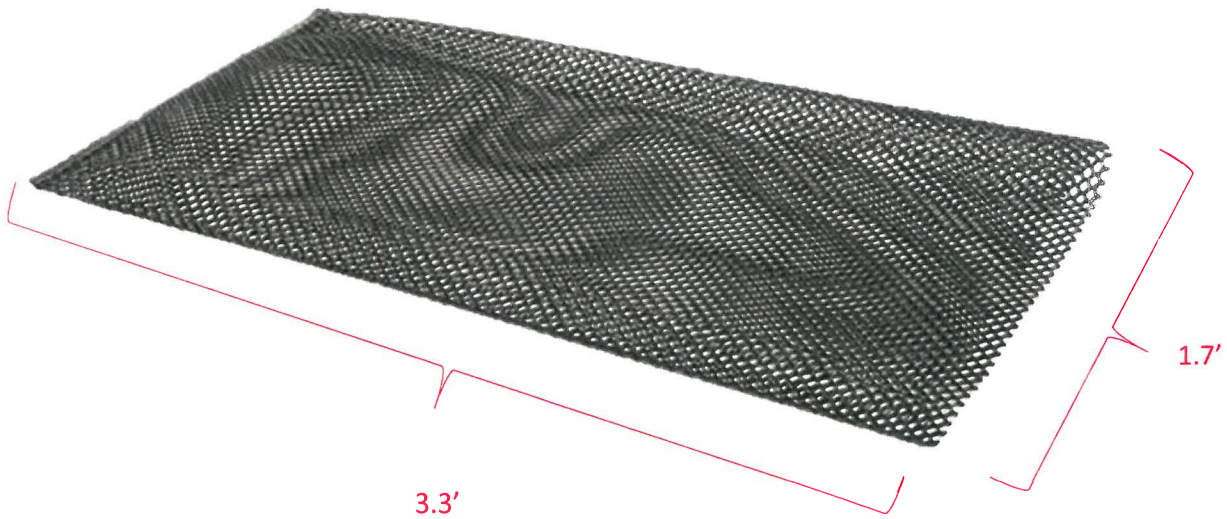


Figure 9. Vexar bags holding oysters and scallops. Bags placed in cages. Image created by M. Griffin and adapted from oyster-mesh.com 12/2017.



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Figure 10. View looking north from proposed lease.



Figure 11. View looking east from proposed lease.

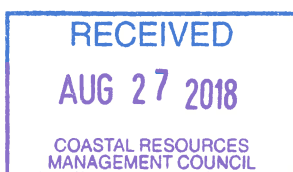


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Figure 12. View looking south from proposed lease.



Figure 13. View looking west from proposed lease.



RI DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Division of Marine Fisheries

Public Hearing

March 11, 2019





Important Dates

- **March 30**: End of public comment period.
- **April 1**: RI Marine Fisheries Council.
 - Regulatory items related to finfish
- **May 6**: RI Marine Fisheries Council.
 - Remaining regulations and other items TBD.

Summer Flounder 2019 Recreational Management



Proposal 1: Management – no changes proposed.

Min. Size	Season	Possession Limit
19"	May 1 – Dec. 31	6 fish

Proposal 2: Special shore provision proposal*

Mode	Min. Size	Season	Possession Limit
<u>Special Shore*</u>	<u>16"</u>	<u>May 1 – Dec. 31</u>	<u>2 fish</u>

- * This will need to be vetted by the ASMFC, assessment delay may impact our ability to achieve in 2019.
- * 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.

Summer Flounder 2019 Commercial Management



Option 1: Status quo.

Min. Size	Season	Allocation	Days closed	Starting Possession Limit
14"	1/1 – 4/30	54%	N/A	100 lbs/day
	5/1 – 9/15	35%	Fri/Sat/Sun	50 lbs/day
	9/16 – 12/31	11%	N/A	100 lbs/day
	2/5 – 4/30	Agg. Program	N/A	1,500 lbs/2 wks

Option 2: Re-open on Sunday during the Summer sub-period.

Min. Size	Season	Allocation	Days closed	Starting Possession Limit
14"	1/1 – 4/30	54%	N/A	100 lbs/day
	5/1 – 9/15	35%	Fri/Sat/ Sun	50 lbs/day
	9/16 – 12/31	11%	N/A	100 lbs/day
	2/5 – 4/30	Agg. Program	N/A	1,500 lbs/2 wks

Summer Flounder 2019 Commercial Management



Option 3: Re-open on Friday and Sunday during the Summer sub-period.

Min. Size	Season	Allocation	Days closed	Starting Possession Limit
14"	1/1 – 4/30	54%	N/A	100 lbs/day
	5/1 – 9/15	35%	Fri/Sat/Sun	50 lbs/day
	9/16 – 12/31	11%	N/A	100 lbs/day
	2/5 – 4/30	Agg. Program	N/A	1,500 lbs/2 wks

Option 4: Re-open on Saturday and Sunday during the Summer sub-period.

Min. Size	Season	Allocation	Days closed	Starting Possession Limit
14"	1/1 – 4/30	54%	N/A	100 lbs/day
	5/1 – 9/15	35%	Fri/Sat/Sun	50 lbs/day
	9/16 – 12/31	11%	N/A	100 lbs/day
	2/5 – 4/30	Agg. Program	N/A	1,500 lbs/2 wks



Black Sea Bass 2019 Recreational Management

- No amendments proposed for 2019.

Current Rules:

Min. Size	Season	Possession Limit
15"	1/1 – 6/23	Closed
	6/24 – 8/31	3 fish
	9/1 – 12/31	7 fish

Note: Season currently in effect is as shown, which was modified on May 9, 2018, pursuant to the Department's authority under R.I. Gen. Laws § 20-1-12.1. *Modifications to possession limits and seasons for marine species managed under quotas.* Current rule does not reflect this modification, and therefore must be amended as such to sync rule with this filed modification.

Black Sea Bass 2019 Commercial Management



Option	Min. Size	Season	Allocation	Starting Possession Limit
<u>Option 1:</u> Status Quo.	11"	1/1 – 4/30	25%	500 (vsl/week)
		5/1 – 6/30	25%	50 (vsl/day)
		7/1 – 7/31	19.5%	50 (vsl/day)
		8/1 – 9/14	Closed	
		9/15 – 10/31	19.5%	50 (vsl/day)
		11/1 – 12/31	11%	50 (vsl/day)
<u>Option 2:</u> Industry proposal - combine sub-periods.	11"	1/1 – 4/30	25%	N/A
		5/1 – 6/30	25%	50 (vsl/day)
		7/1 <u>5/1</u> – 7/31	19.5 <u>44.5</u> %	50 (vsl/day)
		8/1 – 9/14	Closed	
		9/15 – 10/31	19.5%	50 (vsl/day)
		11/1 <u>9/15</u> – 12/31	11 <u>30.5</u> %	50 (vsl/day)

Black Sea Bass 2019 Commercial Management



Option	Min. Size	Season	Allocation	Days closed	Starting Possession Limit
<u>Option 3:</u> Industry proposal – align closed days for Black sea bass with Summer flounder.	11”	1/1 – 4/30	25%	--	500 (vsl/week)
		5/1 – 6/30	25%	--	50 (vsl/day)
		7/1 – 7/31	19.5%	<u>Fri/Sat/Sun</u>	50 <u>85</u> (vsl/day)
		8/1 – 9/14	Closed		
		9/15 – 10/31	19.5%	--	50 (vsl/day)
		11/1 – 12/31	11%	--	50 (vsl/day)

Scup

2019 Recreational Management



Option 1: Status quo.

Mode	Min. size	Season	Possession Limit
Recreational	9"	5/1 – 12/31	30 fish
P/C	9"	5/1 – 8/31	30 fish
		9/1 – 10/31	45 fish
		11/1 – 12/31	30 fish
Special Shore	8"	5/1 – 12/31	30 fish

Option 2: Earlier opening date.

Mode	Min. size	Season	Possession Limit
Recreational	9"	5/1 <u>1/1</u> – 12/31	30 fish
P/C	9"	5/1 <u>1/1</u> – 8/31	30 fish
		9/1 – 10/31	45 fish
		11/1 – 12/31	30 fish
Special Shore	8"	5/1 <u>1/1</u> – 12/31	30 fish

Scup - 2019 Recreational Management



Option 3: Increase poss. limit for P/C.

Mode	Min. size	Season	Possession Limit
Recreational	9"	5/1 – 12/31	30 fish
P/C	9"	5/1 – 8/31	30 fish
		9/1 – 10/31	45 <u>50</u> fish
		11/1 – 12/31	30 fish
Special Shore	8"	5/1 – 12/31	30 fish

Option 4: Amend season and poss. limit for P/C.

Mode	Min. size	Season	Possession Limit
Recreational	9"	5/1 – 12/31	30 fish
P/C	9"	5/1 – 8/31 <u>6/30</u>	30 <u>50</u> fish
		<u>7/1 – 8/31</u>	<u>30 fish</u>
		9/1 – 10/31	45 <u>50</u> fish
		11/1 – 12/31	30 fish
Special Shore	8"	5/1 – 12/31	30 fish



Scup

2019 Recreational Management

Option 5: Increase poss. limit for P/C.

Mode	Min. size	Season	Possession Limit
Recreational	9"	5/1 – 12/31	30 fish
P/C	9"	5/1 – 8/31	30 fish
		9/1 – 10/31	45 <u>50</u> fish
		11/1 – 12/31	30 <u>50</u> fish
Special Shore	8"	5/1 – 12/31	30 fish



Commercial Scup

Gear-based possession limit thresholds

- Adjust the commercial Scup gear-based possession limit thresholds consistent with the final rule published by NOAA (effective date 1/1/2019).
- **Proposed language (section 3.8.3(C)):** Trawl vessel gear restrictions - minimum mesh size: Owners or operators of otter trawl vessels possessing ~~five hundred (500)~~ **greater than one-thousand (1,000)** pounds ~~or more~~ of scup from ~~November 1~~ **October 1** through April ~~30~~ **14**; **or greater than two-thousand (2,000) pounds or more of scup from April 15 through June 15**; or **greater than** two hundred (200) pounds ~~or more~~ of scup from ~~May 1~~ **June 16** through ~~October 31~~ **September 30**, 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.

Striped Bass 2019 Recreational Management



- No amendments proposed for 2019.

Current Rules:

Min. size	Season	Possession Limit
28"	1/1 – 12/31	1 fish

Striped Bass - 2019 Commercial General Category Management



Option	Min. Size	Season	Allocation	Possession Limit
Option 1: Status quo	34"	5/20 – 8/4 (closed Fri & Sat)	70%	5 fish/person/day (max 5 fish/vessel)
		8/5 – 12/31 (closed Fri & Sat)	30%	
Option 2: Industry proposal		5/20 – 8/4 <u>12/31</u> (closed Fri & Sat)	70 <u>100</u> %	
		8/5 – 12/31 (closed Fri & Sat)	30 %	
Option 3: Industry proposal		5/20 <u>6/2</u> – 8/4 <u>12/31</u> (closed Fri & Sat)	70 <u>100</u> %	
		8/5 – 12/31 (closed Fri & Sat)	30 %	

Striped Bass - 2019 Commercial Floating Fish Traps Management



- No amendments proposed for 2019.

Current Rules:

Min. Size	Season	Possession Limit
26"	4/1 – 12/31	Unlimited



Tautog

2019 Party/Charter possession limit

- Recreational possession limit was amended from 6 fish to 5, as well as extending the season to Dec 31, as a result of public hearing February 2018. These changes were also to apply to the party/charter regulations, but were inadvertently missed at that time.

Option 1: Amend possession limit.

Season	Possession Limit
1/1 – 4/14	Closed
4/15 – 5/31	3 fish/day
6/1 – 7/31	Closed
8/1 – 10/14	3 fish/day
10/15 – 12/31	6 5 fish/day



Bluefish

2019 Recreational Management

- No amendments proposed for 2019.

Current Rules:

Min. size	Season	Poss. Limit
No min. size	1/1 – 12/31	15 fish

Bluefish

2019 Commercial Management



Option	Min. size	Sub-period	Poss. Limit
<u>Option 1:</u> Status Quo	12"	1/1 – 4/30	1,000 lbs/2 wks
		5/1 – 2 nd Sat. in Nov.	6,000 lbs/wk
		2 nd Sun. in Nov. – 12/31	500 lbs/wk
<u>Option 2:</u> Increase possession limit		1/1 – 4/30	1,000 lbs/2 wks
		5/1 – 2 nd Sat. in Nov.	6,000 <u>8,000</u> lbs/wk
		2 nd Sun. in Nov. – 12/31	500 lbs/wk
<u>Option 3*:</u> Decrease possession limit		1/1 – 4/30	1,000 <u>500</u> lbs/2 wks
		5/1 – 2 nd Sat. in Nov.	6,000 <u>1,000</u> lbs/wk
		2 nd Sun. in Nov. – 12/31	500 <u>250</u> lbs/wk

* Contingency option if quota transfer from recreational to commercial is not approved by NOAA

Blacknose shark possession limit



- Seeks consistency with the 2019 ASMFC specifications for coastal sharks, which prohibits possession of Blacknose sharks north of 34°N latitude in the commercial fishery.
- **Proposed language (Part 3, section 3.19.2.):**
 1. Prohibited: Sand tiger, Bigeye sandtiger, Whale, Basking, White, Dusky, Bignose, Galapagos, Night, Reef, Narrowtooth, Caribbean sharpnose, Smalltail, Atlantic angel, Longfin mako, Bigeye thresher, Sharpnose sevengill, Bluntnose sixgill, **Blacknose**, and Bigeye sixgill shark.
 1. Possession limit: Smoothhound, Non-Blacknose Small Coastal, **Blacknose**, and Pelagic shark species groups: Unlimited.

Cod - Recreational minimum size



- Seeks consistency with the 2018 federal specifications for the Georges Bank (GB) recreational Cod fishery.

- **Proposed language (Part 3, section 3.20.1):**

A. Minimum size: ~~Twenty-two inches (22")~~ **Vessels in state waters may harvest, possess, or land cod in state waters at the minimum size equal to that allowable for federal waters, Outside Gulf of Maine (GOM) Regulated Mesh Area as codified at 50 C.F.R. §648.89.b. A summary of the current minimum size for Atlantic Cod in federal waters, Outside GOM Regulated Mesh Area can be found at NOAA Fisheries: <https://www.greateratlantic.fisheries.noaa.gov/sustainable/recfishing/re gs/index.html>.**

B. Possession limit:

- Ten (10) fish per person per calendar day.
- **Vessels in possession of a federal permit authorizing the recreational harvest of cod in federal waters may harvest, possess, or land cod in state waters in the amount equal to the federal regulations.**



Menhaden 2019 Commercial Management

- **Proposal 1:** Division proposal to broaden the commercial vessel restrictions to apply to all commercial vessels (other than small-scale fisheries and floating fish traps); currently applies only to purse seines (section 3.22.2(A)(2)).
 - Rule currently applies only to purse seine operations.
 - Would not be applicable to small-scale (defined in rule) and floating fish traps.
 - For all proposed changes see the noticed annotated language.

Menhaden

2019 Commercial Management



- **Proposal 2:** Industry proposal to restrict vessel size (new sections 3.22.2(A)(2)(e) and 3.22.2(A)(2)(f)).
- **Proposed language:**
 - e. Fish storage capacity:** 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,~~ **engaging in commercial fishing operations,** each vessel must be inspected by a certified marine surveyor ~~and~~ **for the purpose of** ~~assessing with regard to its~~ **the size of 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.~~
 - f. Vessel length:** **Vessels shall not exceed eighty (80) feet in length.**

Menhaden

2019 Commercial Management



- **Proposal 3:** Division proposal to replace instances of “landing limit” with “possession limit” (several instances in section 3.22.2(B)).
 - Rationale: Original intent was to still allow for possession once the state quota and episodic had been reached if the management area remained open, and prohibit landing. Requirement felt no longer necessary due to Amendment 3 quota increase.
 - For all proposed changes see the noticed annotated language.

Menhaden

2019 Commercial Management



- **Proposal 4:** Industry proposal to add a reduced possession limit trigger under the State Quota Program (section 3.22.2(B)(2)).
- **Proposed language:** Once **50% of** the quota has been reached, the ~~fishery will close for directed fisheries, including but not limited to purse seine operations, and the incidental catch fishery will be in effect~~ **possession limit will be 80,000 pounds per vessel per day.**

Menhaden

2019 Commercial Management



- **Proposal 5:** Division proposal to clarify the transiting rule as it pertains to the commercial menhaden fishery (proposed new section 3.22.2(B)(4)).
 - **Proposed language: The transiting provision in § 1.6(C)(1)(b) of this Subchapter does not apply to the commercial menhaden fishery. Any vessel transiting state waters must abide by the current state possession limit.**
 - *1.6(C)(1)(b): 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, and provided that the owner or operator possesses a valid RI Landing License.*

Menhaden

2019 Commercial Management



- **Proposal 6:** Division proposal to amend the date of the end of the Episodic Event Set Aside Program consistent with the ASMFC FMP (section 3.22.2(C)(2)).
 - **Proposed language:** The Episodic Event Set Aside Program will end on ~~November 1~~ **October 31** annually, or when the Set Aside quota has been harvested, whichever first occurs.



Whelk Management

- Amend the whelk minimum size measurement (Part 4 – Shellfish; section 4.9(F)):

Proposed language:

- Three inches (3") ~~(76.2mm)~~ shell width ~~or five and three eighths inches (5 3/8") (136.5 mm)~~ shell length.
- Shell width is measured as the longest straight-line distance from one shell margin to the opposite shell margin when the shell is positioned flat on a horizontal surface with the aperture opening facing down, and oriented such that the columella axis is parallel to a vertical surface.

Whelk Management



- Proposed adoption of a whelk pot tagging program (Part 4 – Shellfish; proposed new section 4.18)):
 - Establishes commercial whelk pot tagging requirements
 - Administered similar to lobster tag program.
 - Maintain 300 pot limit (no changes proposed).
 - Allow for 10% extra for routine loss (like lobster trap tags).
 - Fastenable single use tag (like lobster trap tags).
 - Tag cost ~ \$0.14 per tag borne by license holder.
 - Tags proposed to be valid from March 1 through the last day in February annually.
 - Rule would take effect in 2020.
 - For all proposed changes see the noticed annotated language.



Lobster Trap Tag Management

- Division proposal to replace original lobster trap tags ordered but not initially received with catastrophic tags in the event tags were not received and are presumed lost (Part 5 – Lobsters, Crabs, and Other Crustaceans; section 5.8.1(R)(11)(c)).

Proposed language: Catastrophic loss trap tags: Commercial licensees may order up to two (2) complete sets of catastrophic **loss** trap tags, in an amount equal to the number of original tags ordered, to be used in the event of catastrophic loss **or to replace original trap tags not received.**

Upper Narragansett Bay Trawling Area



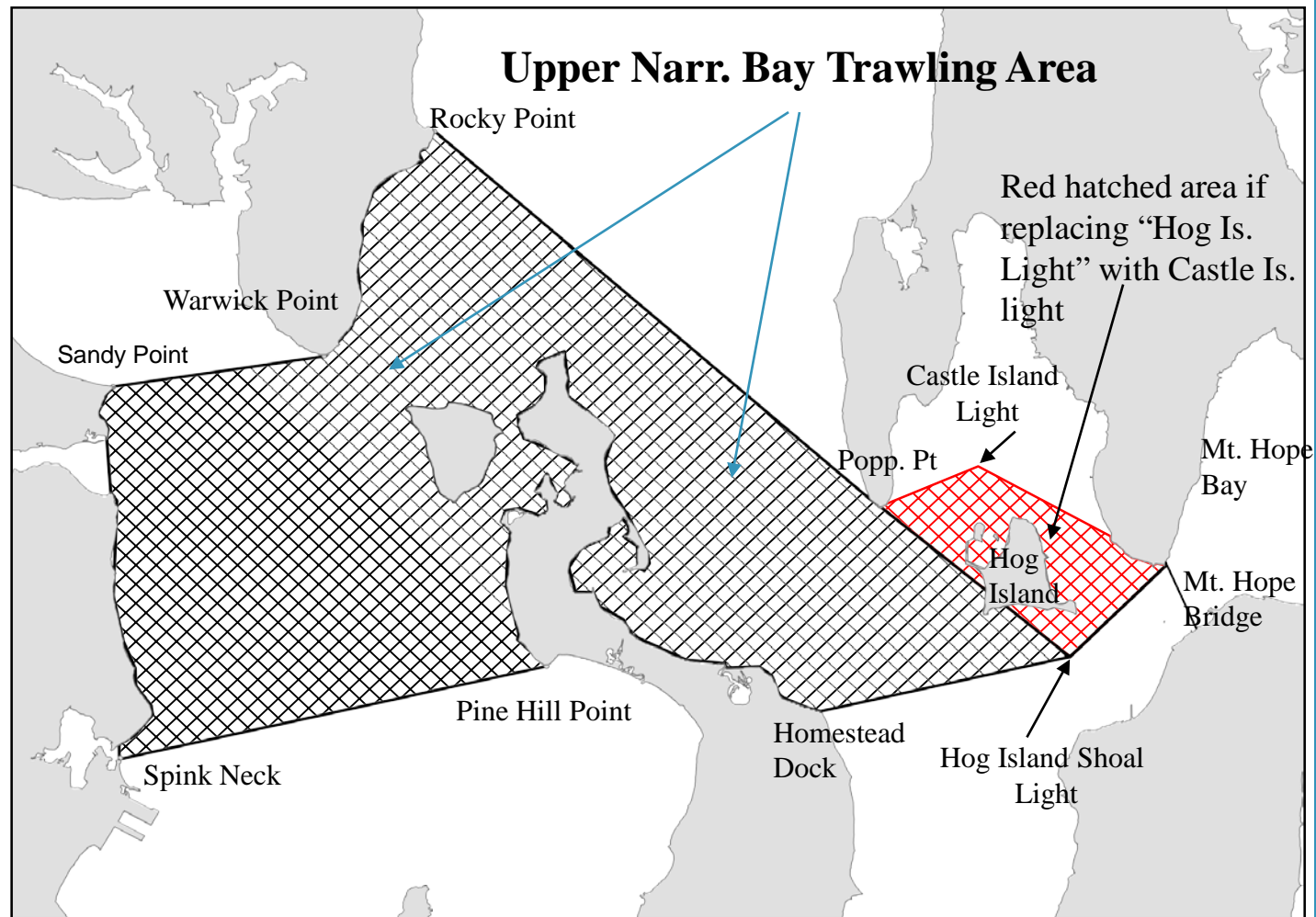
- Clarification of open and closed periods of the Upper Narragansett Bay Trawling Area to trawling (Part 6 – General Equipment Provisions; section 6.8.2(C)(1)).
- Area is open for trawling July 1 through November 1 annually, except on weekends and holidays. As written, rule is not clear that area is closed to trawling the remainder of the year from November 2 through June 30.
- **Proposed language:**
- **Prohibited areas:** In addition to those waters where all netting is prohibited, a trawling device is prohibited in the following areas:
 - In the Upper Narragansett Bay Trawling Area **from November 2 through June 30, and** on any Saturday, Sunday, or legal State holiday **between from** July 1st **and through** November 1st annually.

Upper Narragansett Bay Trawling Area

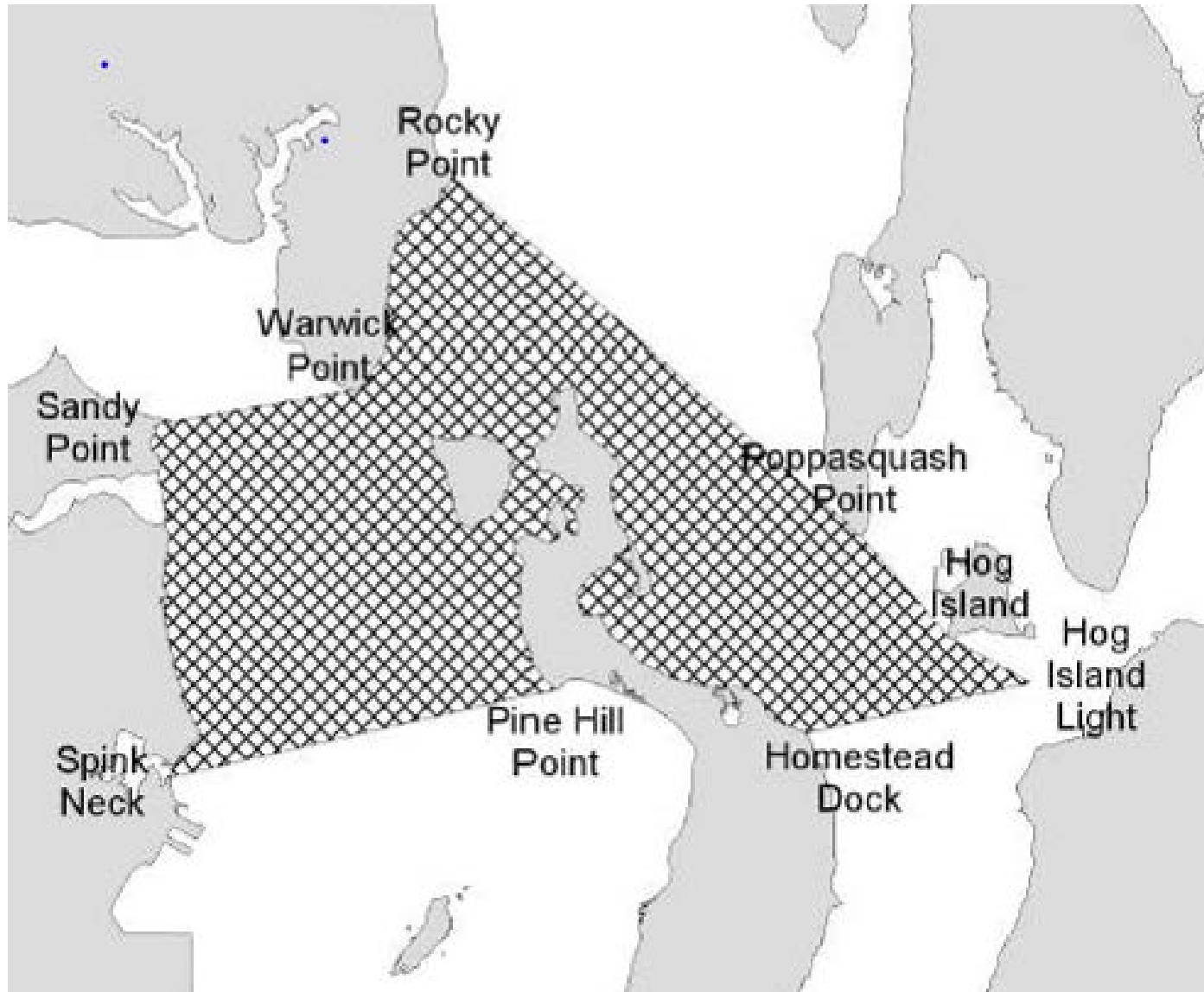


- Clarification of area description of the Upper Narragansett Bay Trawling Area (Part 6 – General Equipment Provisions; section 6.8.2(C)(1)(a)).

- As written, description of area is unclear in the area of Hog Island and the Mt. Hope bridge



Upper Narragansett Bay Trawling Area



Extension of gill net tag valid dates (Part 6, section 6.8.3(I)(6)).



Proposed language:

~~Tags shall be valid in 2-year increments beginning January 1 and ending December 31 the following year.~~ **Nets are required to be tagged beginning January 1, 2017. The current valid tags are colored orange and will be valid until January 1, 2021.**

End of Slides!





RHODE ISLAND

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

DIVISION OF MARINE FISHERIES

3 Fort Wetherill Road

Jamestown, Rhode Island 02835

SUMMARY OF COMMENTS

A public hearing was held on **March 11, 2019** at 6:00 PM, URI Narragansett Bay Campus, Corless Auditorium, Narragansett, RI. Several (50 +/-) persons were in attendance.

Hearing Officer: *J. Lake*

DEM Staff: *B. Ballou, C. Hoefsmit, S. Olszewski, C. McManus, J. Lake, J. Livermore, N. Lengyel, C. Parkins, A. Gerber-Williams, C. Truesdale, P. Duhamel, Sgt. D. White (DLE)*

RIMFC: *A. Dangelo, D. Monti, T. Barao, J. Jarvis*

1. 2019 recreational Summer flounder management:

- *S. Medeiros/RISWAA:* In support of both proposals - to maintain status quo for the general recreational fishery, and to provide for a 2 fish possession limit, 16" min. size special shore provision.
- *R. Hittinger:* In support of both proposals.
- *D. Monti:* Need to clarify if the 2 fish possession limit for the special shore site proposal is in addition to the 6 fish general recreational possession limit.

2. 2019 commercial Summer flounder management:

- *Town Dock:* In support of re-opening all three days currently during the summer sub-period (i.e., Friday, Saturday, Sunday).
- *J. Dodge:* In support of re-opening all three days currently closed.
- *D. Fox:* In support of re-opening all three days currently closed.
- *R. Hittinger:* Consider increasing the starting possession limit to 100 lbs/day and maintaining closed days.
- *A. Lotz:* In support of re-opening all three days currently closed.
- *B. Lake:* In support of re-opening all three days currently closed.
- *J. Perkins:* In support of re-opening all three days currently closed.
- *Public comment:* In support of re-opening all three days currently closed.
- *J. Macari:* In support of re-opening all three days currently closed.
- *R. Jobin:* In support of re-opening all three days currently closed.
- *A. Eagles:* In support of re-opening all three days currently closed.
- *K. Sullivan:* In support of re-opening all three days currently closed.

3. 2019 recreational Black sea bass management:

- Public comment: June 24 start date is late for bay fishermen.
- S. Medeiros/RISWAA: Begrudgingly in support of status quo, with hopes of increased quota for 2020.
- R. Hittinger: Supports an earlier opening date for the summer sub-period, as the larger fish are inshore earlier, and neighboring states both open in early May. So if fishing for Summer flounder in May, would be desirable to be able to keep Black sea bass as well.
- R. Bellavance/RIPCBA: Asked that any changes to recreational Black sea bass management consider that the fall season is very important to the P/C industry.
- Public comment: The June 24 start date for the summer sub-period is too late.

4. 2019 commercial Black sea bass management:

- K. Almeida/Town dock: In support of option 1, status quo.
- D. Fox: In support of option 1, status quo. Not in support of option 2 to combine sub-periods as could create a significant closure from the end of June until re-opening in mid-September.
- A. Lotz: In support of option 2; expressed that there won't be any closed days.
- J. Perkins: In support of option 2.
- K. Murgo: In support of option 2. Supports moving quota from July into May as price decreases in early July when Massachusetts opens.
- K. Sullivan: In support of option 2.
- A. Eagles: In support of option 2.
- J. Dodge: In support of option 1, maintaining status quo. Expressed that option 2 is only good for bay fishermen, and would negatively impact Westerly fishermen.
- R. Jobin: In support of option 1, status quo.
- J. Macari: In support of option 1, status quo.
- Public comment: In support of option 1, status quo.
- R. Masciarelli: In support of option 1, status quo.
- M. Kearns: In support of option 2.
- J. McDonald: In support of option 2.
- S. Katkowski: In support of option 1, status quo.
- R. Chappell: In support of option 1, status quo.
- Public comment: In support of option 2.
- R. Sylvestre: In support of option 2.
- D. Eagan: In support of option 2.

5. 2019 recreational Scup management:

- S. Medeiros/RISWAA: In support of option 2.
- F. Blount: Not in support of any of the options presented. Expressed belief that intent was to establish a year round fishery with an increase in possession limit for the bonus seasons. Stated that fishery is under harvested by $\approx 30\%$, and that proposals presented don't go far enough to increase harvest.

6. 2019 commercial Scup management regarding possession limits for trawl vessels with a minimum mesh size:

- D. Fox: In support as proposed, with an expansion of the proposed June 15 end date extended to August 15 to allow for increased harvest along the beach when the fish are often available, due to fishery currently being under harvested.

7. 2019 recreational Striped bass management:

- No comments provided.

8. 2019 commercial Striped bass general category management:

- J. Martini: In support of option 3.
- R. Jobin: In support of option 3.
- J. Macari: In support of option 3.
- M. Sherer: In support of option 3.
- Public comment: In support of option 3.
- B. Lake: In support of option 1.
- Public comment: In support of option 2.
- K. Murgo: In support of option 2.
- S. Katkowski: In support of option 1
- A. Lotz: In support of option 2.
- R. Clements: In support of option 3.
- J. Dodge: In support of option 1.
- R. Chappell: In support of option 1.

9. 2019 commercial striped bass floating fish trap management:

- No comments provided.

10. 2019 party/charter possession limit for Tautog:

- R. Bellavance/RIPCBA: In support of maintaining the 6 fish possession limit from October 15 - December 31, to balance with Massachusetts when they are open @ 1 fish during the spawning season when RI is closed.
- F Blount: In support of maintaining the 6 fish possession limit from October 15 - December 31. He was originally in support of the change from 6 to 5 fish anticipating that Massachusetts would be closing during the spawning season consistent with RI, and also requiring mandatory reporting for their for-hire vessels, both of which were not implemented.
- R. Hittinger: In support as proposed as private vessels are limited to 10 fish/vessel.

11. 2019 recreational Bluefish management:

- No comments provided.

12. 2019 commercial Bluefish management:

- No comments provided.

13. 2019 commercial Blacknose sharks:

- No comments provided.

14. 2019 recreational Cod management:

- R. Bellavance/RIPCBA: In support as proposed.
- F Blount: In support as proposed.

15. 2019 commercial menhaden management:

- Proposal #1: Division proposal to broaden the commercial vessel restrictions to apply to all commercial vessels other than small-scale fisheries and floating fish traps; currently applies only to purse seines (section 3.22.2(A)(2)).
 - No comments provided.
- Proposal #2: Industry proposal to restrict vessel size (new section 3.22.2(A)(2)(e), and proposed new section 3.22.2(A)(2)(f)).
 - R. Souza: In support of the proposal, however with the vessel length requirement revised to specify that vessels must not exceed 80 feet “documented” length. Stated that allowing for larger vessels give the perception that overharvest is occurring.
 - A. Eagles: In support of the 80 foot documented vessel length requirement as a means to limit harvest
 - D. Ingram: In support of the proposal.
 - R. Jobin: In support of the proposal.
 - R. Jobin: In support of the proposal.
 - R. Sylvestre: In support of the proposal.
 - R. Jobin: In support of the proposal.
 - J. Macari: In support of the proposal.
 - D. Eagan: In support of the proposal.
 - J. McDonald: In support of the proposal.
 - J. Donahue: In support of the proposal.
 - D. Eagan: In support of the proposal.
 - R. Masciarelli: In support of the proposal.
 - R. Miner: In support of the proposal.
 - K. Sullivan: In support of the proposal.
- Proposal #3: Division proposal to replace instances of “landing” with “possession” (several instances in section 3.22.2(B)).
 - No comments provided.

- Proposal #4: Industry proposal to amend the closure trigger under the State Quota Program (section 3.22.2(B)(2)).
 - No comments provided.
- Proposal #5: Division proposal to amend the transiting rule as it pertains to the commercial menhaden fishery (proposed new section 3.22.2(B)(4)).
 - No comments provided.
- Proposal #6: Division proposal to amend the date of the end of the Episodic Event Set Aside Program for consistency with the ASMFC FMP (section 3.22.2(C)(2)).
 - No comments provided.

16. Whelk minimum size measurement:

- K. Murgo: Not in support of the proposal. In support that the rule address a specific gauge to be used. Proposed language is confusing and provides no improvement to current language. In support of a small breakage allowance to allow for breakage during handling.
- Public comment: In support of a length only measurement.
- A. Bessette: In support of maintaining current language.
- B. Bercaw: In support of maintaining current language.
- R. Kenyon: In support of maintaining current language. Easier to measure length.
- E. Bessette: In support of maintaining current language.
- A. Eagles: Proposed language does not provide enough clarity. DEM needs to work more with industry to develop the language.
- R. Sylvestre: In support of maintaining current language.
- D. Eagan: In support of maintaining current language.
- J. McDonald: In support of maintaining current language.

17. Whelk pot tagging program:

- R. Jobin: Mimic dates to the lobster trap tag program dates.
- K. Murgo: Gear loss is routinely greater than 10%, would therefore need provision for gear rotation/catastrophic tags. Does not support proposal due to lack of enforcement.
- R. Sylvestre: Not in support of the proposal.
- R. Kenyon: Not in support of the proposal.
- A. Eagles: Need gear rotation tags due to high gear loss.

18. Lobster Trap Tag Program: Division proposal to replace original lobster trap tags ordered but not initially received with catastrophic tags in the event tags were not received and are presumed lost

- No comments provided.

19. Clarification of open and closed periods of the Upper Narragansett Bay Trawling Area to trawling:

- No comments provided.

20. Clarification of area description of the Upper Narragansett Bay Trawling Area:

- *J. McDonald:* Do not include proposed new area.

21. Extension of gill net tag valid dates:

- *J. Perkins:* In support as proposed.
- *J. Dodge:* In support as proposed.

From: richard souza <pogie26@aol.com>
Sent: Sunday, March 3, 2019 3:06:06 PM
To: Lengyel, Nicole (DEM)
Subject: Re: RE: [EXTERNAL] : 2019 PROPOSAL(FROM RICHARD SOUZA)

Yes Nicole, referring to boat length.

Boat length: That no boats larger than a documented length of 80 feet similar to the net length not to exceed 600 feet in length and a depth of 90 feet, and a fish hold area with the cubic feet equal to one hundred and twenty thousand pounds the limit that can be landed in a Rhode Island port on any given day be allowed to fish in the menhaden management area.

-----Original Message-----

From: Lengyel, Nicole (DEM) <nicole.lengyel@dem.ri.gov>
To: Diane Souza <arkbait78@aol.com>; pogie26@aol.com <pogie26@aol.com>
Sent: Thu, Feb 28, 2019 10:05 AM
Subject: RE: [EXTERNAL] : 2019 PROPOSAL(FROM RICHARD SOUZA)

Rick,

Can you send an email requesting the change to the vessel length language that we discussed this morning? Just state exactly what you told me, about the vessel not exceeding a documented length of 80 feet.

If you submit this email we will add it to the public comment record.

Thanks,

Nicole

ARK BAIT COMPANY

RECOMMENDATIONS TO RI FISH AND WILDLIFE FOR MENHADEN MANAGEMENT AREA

1. BOAT LENGTH: ESTABLISH A BOAT LENGTH LIMIT, SIMILAR TO THE NET LENGTH LIMIT, NOT TO EXCEED EIGHTY FEET, AND A FISH HOLD AREA WITH CUBIC FEET EQUAL TO ONE HUNDRED TWENTY THOUSAND POUNDS (120,000) THE LIMIT THAT CAN BE LANDED IN A RHODE ISLAND PORT ON ANY GIVEN DAY.

2. QUOTA: ONCE THE RHODE ISLAND QUOTA REACHES THE FIFTY PER CENT (50%) MARK, THE DAILY LIMIT FOR SEINING WOULD DROP DOWN TO EIGHTY THOUSAND POUNDS (80,000) FOR THE REMAINDER OF THE FISHING SEASON OR THE ENTIRE QUOTA IS CAUGHT, WHICHEVER COMES FIRST.

3. THESE RECOMENDATIONS ARE TO BE REVISITED IN 2 YEARS FROM NOW IF THEY ARE PASSED.

IF SOME RESTRICTIONS ARE NOT IN PLACE THIS FIRST YEAR THAT RHODE ISLAND HAS A REASONABLE QUOTA, THEN IT MAY PROVE TO BE VERY DIFFICULT TO MAKE CHANGES, ONCE A PRECEDENT HAS BEEN ESTABLISHED.

From: [Bob Marco](#)
To: [Duhamel, Peter \(DEM\)](#)
Subject: [EXTERNAL] : Bass
Date: Friday, March 15, 2019 7:04:15 AM

Why can't we shut down the bass fishing and be like North Carolina to help the stock rebound if the fishing continues to be overfished there won't be striped bass around

Sent from my Verizon, Samsung Galaxy smartphone

From: [Joe Macari](#)
To: [Duhamel, Peter \(DEM\)](#)
Subject: [EXTERNAL] : Support for Option 3-Striped Bass
Date: Sunday, March 17, 2019 12:24:52 PM

Dear Mr Duhamel:

I would just like to reiterate my position on the upcoming RI commercial striped bass fishery. I propose, and believe that option 3, season opening June 2nd at 100% is the best option. The season should last well into July which would allow fisherman to harvest fish in legal waters. In August (status quo seasonal option), a large percentage of fish are very scarce in State waters, thus most striped bass are in waters in the EEZ. This creates an unfair disadvantage for fisherman who follow the regulations. I believe the bulk of striped bass are located in State waters during June, July, thus Option 3 would be most advantageous for RI fishermen.

Sincerely yours,
Joe Macari
Commercial fisherman
Jmacari1@cox.net

From: [joshua soares](#)
To: [Duhamel, Peter \(DEM\)](#)
Subject: [EXTERNAL] : March 11, 2019 public hearing
Date: Thursday, March 21, 2019 1:37:24 PM

Peter ,

I would like to to comment on a few topics from the March 11, 2019 public hearing .

Fluke: I would like to support opening 7 days a week .

Sea Bass: I would like to support option 2 .

Whelk : I would like to support status quo on definition of size until we come up with a gauge together(State and industry). I also believe when the gauge is created there should be a video on your website of how to properly use . Massachusetts has this and think it is great for fisherman and law enforcement so there is no discrepancies. I think we should move as quick as possible to create this gauge and get everyone on the same page .

Whelk Trap tags : I don't think there is a need for tags as it is to hard to enforce . I believe it should be 300 pot limit one license per a boat. But at the very least 2 Licenses per a boat should be on the books . I believe 1 license per a boat will cause a rise in catch with less gear . The 300 per a boat will allow bigger boats to have enough gear to participate every other day but still keep it a healthy and inshore fishery .Where I fish I have offshore lobster vessels participating in the fishery at times with 600 pots . 600 pots is getting into offshore gear numbers inshore and putting unnecessary pressure on the fishery . Mass has a 200 pot limit one license per a boat and a much larger body of water then RI . But I think cutting some of the gear out of the water will bring the lb per pot average up thus creating actually more profit . Less bait , fuel, wear and tear ect..... Which has been happening in mass .

Thanks

Joshua Soares

Full Time Commercial Fisherman

Sent from my iPhone

Kenneth T Murgo
RI MP License #001365
F/V Johnny B
57 Woodlawn Avenue
Bristol, RI 02809
Kenneth.Murgo@gmail.com
(401) 368-4397

March 11, 2019

Subject: Comment on March 11, 2019 Public Hearing

To Whom It May Concern,

My name is Kenneth Murgo and I am a full time RI state waters commercial fisherman from Bristol RI. I am going to start my comment with whelk management as this fishery has become vital to the livelihood of full time inshore Narragansett Bay fisherman. Regardless of the outcome of the minimum size measurement amendment there should be an allowance for shell breakage. At a whelk's widest point, the outer edge of the shell, the shell is so thin it is nearly translucent and extremely fragile. Even with the most careful of handling there is significant breakage any time the whelks are moved around, resulting in legal whelks being measured as too small later on. Fisherman should not be punished when enforcement goes through a load of whelks and some of them chip during handling. Many east coast states, the states with the largest whelk fisheries (MA, DE, VA), have an undersized allowance to account for this accidental breakage.

In regards to the amendment of the whelk minimum size measurement I find the new definition to complicated, impractical and contradictory. This is not an improvement from the previous regulation and is contradictory because the widest point of the whelk is not across the axis measured when it's laying flat. When the whelk is laying flat the measuring device is measuring to the outer wall of the whelk. This is not the widest point, the very edge of the shell is. If we are going to define our minimum size for whelk as a 3in width then we should be able to measure across the whelk's widest point.

Given the difficulty of measuring whelks and sensitivity to tiny variations in orientation I believe a physical gauge is the way to go for this fishery. We handle more individual organism than quahoggers and need a reliable and fast way to measure whelks like quahoggers have in their gauges. To simplify measurement there must be no question of orientation in the measurement. Either the whelk goes through the gauge and is too small or it sticks in the gauge and is legal size. I would support either a chute gauge or a ring gauge with the caveat that fishermen and DEM work together to come up with a gauge size that is equivalent to the 3-inch width we are trying to define now.

I do not support the proposed whelk pot-tagging program, as it is an unnecessary regulatory burden because it is so difficult to enforce. There is no reason to waste our time and money on these tags if the regulation will not be effectively enforced. If the tagging program does go through I recommending adding the option of catastrophic loss tags as well. Gear loss well above 10% does happen in this fishery.

Regarding the 2019 Management of Commercial Black Sea Bass I support option 2. Instead of closing mid-June for a couple weeks before re opening July 1 and having only a week of high prices until Massachusetts opens in early July and floods the market, our May 1 sub period with 44.5% of the quota would run through June and be finishing up right around when Mass opens in early July. This would allow us to maximize the value of our quota and avoid the 2-week closure at the end of June, which is inefficient and can cause gear loss as sea bass traps are left unattended. I also support the idea of adding the Nov 1 sub period quota to the Sept 15 sub period to avoid the dangerous weather we often get in November.

I am strongly opposed to option 3. Closed days have always been a management tool of last resort and should be kept that way. As a young commercial fisherman I rely on fishing for a variety of species every day and the 50lbs of sea bass I am able to land is an important contributor to my profitability for the day. This is a very expensive industry to break into, even more so in recent times when every economically viable permit must be purchased. I have to work 6 or 7 days a week during the summer to support my business. Fishing 4 days a week may work for older fisherman with established operations but not for newer fishing businesses. If they greying of the fleet is to be slowed down regulations must be kept equitable to all in the fishery. Option 3 is completely unnecessary as it is just a half-baked version of the aggregate program being tested by the state this year. Fisherman who would like to land 85 lbs of fish on Monday-Thursday will be allowed to do so in the aggregate program. Leaving the Sea Bass regulations at 50lbs a day 7 days a week while offering fisherman the option of joining the aggregate program next year would be equitable to all.

Kenneth Murgo

From: [Scarduzio, Nancy \(DOA\)](#)
To: [Duhamel, Peter \(DEM\)](#)
Subject: Proposed finfish regs-
250-RICR-90-003
Date: Thursday, February 28, 2019 9:11:22 AM

Hi Pete,
Hope all is well with you.

I am assuming you are still the person putting together regulatory changes. I quickly looked through the proposed finfish regs and noticed a couple of things you might want to address at some point in the public hearing process.

In the Commercial Black Sea Bass section (3.7.2)

Option #1 – Status quo

3.7.2 (B)(5)(a) and (B)(6)(a) - It would appear there is language that may have been inadvertently eliminated, since it is in the other sections and it doesn't make sense in these sections without the missing language. That language being “of the quota.” - should perhaps be inserted at the end of each of these sentences, denoting percentages “of the quota”.

The same in:

Option #2 - Industry Proposal

3.7.2 (B)(4)(a) - insert “of the quota.” - at the end of the sentence. [i.e. - *Allocation: ~~Nineteen and a half percent (19.5%)~~ Thirty and one half percent (30.5%) of the quota.*]

I only gave a quick glance, you may want to check through the other sections for consistency, but I don't think I saw anything else.

So, I know this is out for public comment so you really cannot make any changes, therefore, at the public hearing you may want to consider making a comment that this language was inadvertently missing and will be inserted for clarity.

If you have any questions, let me know. Just trying to be helpful!

Best,
Nancy

Nancy Scarduzio
Small Business Ombudsman
Office of Regulatory Reform
Office of Management & Budget
RI Department of Administration
Tel: (401) 278-9120 - Direct Line
nancy.scarduzio@omb.ri.gov

Richard J Browning
324 Old Mill Road
Charlestown, RI 02813

March 22, 2019

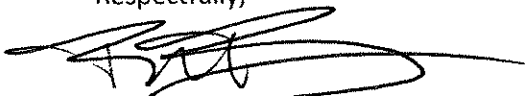
Peter Duhamel
Department of Environmental Management/Marine Fisheries
3 Fort Wetherill Road
Jamestown, RI 02835

RE: Marine Fisheries Public Hearing on March 11, 2019

To Who It May Concern,

Regarding Summer Flounder 2019 commercial management, I urge the RI Marine Fisheries Council to vote on one of the four (4) options that were presented at the public hearing on 3/11/2019. DEM/Division of Fish & Wildlife Marine Fisheries must properly vet any additional options with proper notice and hearing. Marine Fisheries has the ability to adjust possession limits for the 2019 summer flounder quota increase.

Respectfully,

A handwritten signature in black ink, appearing to read 'R. Browning', with a long horizontal flourish extending to the right.

Richard J Browning

From: [Rich Hittinger](#)
To: [Duhamel, Peter \(DEM\)](#)
Cc: [Steve Medeiros](#); [Dave Monti](#); [Travis Barao](#)
Subject: [EXTERNAL] : Re: rec. fluke
Date: Thursday, January 24, 2019 7:38:43 PM

Pete

As you know, I brought this up at the last RIMFC meeting. I have had comments to me that some shore fishermen target fluke and since the minimum size has been raised to 19" it basically means that they have virtually no possibility of keeping any fluke. I think it would make sense to allow a smaller minimum size for shore caught fluke. I would be happy with a lower bag limit if that helps. As I pointed out at the RIMFC meeting there are several facts that would lend support to this idea. First, CT has a similar program where they allow 17" minimum size through their Enhanced Opportunity Shore Fishing Program. Also, the commercial minimum size is 14", so a 16" or 17" minimum size from shore would not be a problem biologically relative to taking fish too small. Finally, the number of shore fishermen who are catching fluke can't be very great, so I think the actual number of fish and pounds of fish we are talking about under this regulation is small.

I would like to propose a 16" minimum size from shore with a 2 fish bag limit but no restriction relative to where they are caught as long as it is from shore. If we need to have the limited, Special Shore areas like for scup, that is less preferable, but still a step in the right direction.

Rich

On Jan 22, 2019, at 2:46 PM, Duhamel, Peter (DEM)
<peter.duhamel@dem.ri.gov> wrote:

Hi Rich,

Found your email

You spoke about a special shore regulation for recreational summer flounder at the last Council meeting. We'll be discussing rec. fluke at our next workshop on the 31st (perhaps you just saw the meeting notice). Could you or someone provide a proposal? Its best if we had something in writing (email is fine). We're hoping to have the presentation ready by Friday, so if you could provide something by then it would be ideal and we would have tee'd up for the workshop and include in the hearing notice.

Thanks,
Pete

Peter A. Duhamel, Principal Environmental Planner
RI Department of Environmental Management
Division of Marine Fisheries
3 Fort Wetherill Road
Jamestown, RI 02835
401-423-1927

From: [Sean Moreschi](#)
To: [Duhamel, Peter \(DEM\)](#)
Subject: [EXTERNAL] : Public Comment
Date: Thursday, March 14, 2019 10:28:06 AM

Mr. Duhamel,

I would like to comment on the proposed amendments to commercial Black Seabass management.

As a multipurpose license holder and mainly a rod n reel/diving fishermen:
I support Option 1, status Quo.

Regards,
Sean Moreschi

Sent from my iPhone

Please Sign!

March 12, 2019

RI Marine Fisheries Council

Dear Council Members,

2019 Commercial General Category Striped Bass:

We (In-Bay small boat commercial fisherman) **support** Industry Proposal **Option # 2.** May 20 thru December 31, closed Friday and Saturday, 100% allocation.

Using the start date of Option 3 (June 2) the fish will have already started to move south into cooler water, forcing us to travel much further. This later start date will limit our participation in this season. Rhode Island is the only state that opens May 20. The last 3 years has proven there is a high demand and market price for striped bass during the Memorial Day Holiday Weekend.

Zachary St. Onge	#1357
Russell G. Field	#1335
Ronald Forest	#1319
Ricard Butte	#1501
Frank	#1268
Boss Fubel	#906
Walter Melo Jr	#102
Daniel Janslerds	RI MA 998
Edward R. Dent	#383
Rick Linn	RI. 971

March 12, 2019

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Bill Silvia multi 0526

Ed Austin multi 001444

Ken Murga F/V Johnny B MPURP001365

Michael Maffett multi 00319

March 12, 2019

RI Marine Fisheries Council

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Bob J. Hill

#1459

Richie Hill

#1409

Zach Hill

#1357

March 12, 2019

RI Marine Fisheries Council

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We (In-Bay small boat commercial fisherman) **support** Industry Proposal **Option # 2.** May 20 thru December 31, closed Friday and Saturday, 100% allocation.

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Angel Pina owner
Tony's Seafood Inc
One Commercial Way
Warren RR 02885.

March 12, 2019

RI Marine Fisheries Council

Dear Council Members,

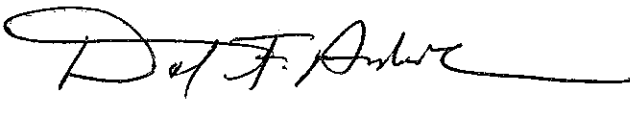
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MQURP 001451

Andrade's Catch (owner) 

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

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Title of Rule: PART 3 – Finfish (250-RICR-90-00-3)

Rule Identifier: 250-RICR-90-00-3

Rulemaking Action: Proposed Amendment

Important Dates:

Date of Public Notice: 02/27/2019

Hearing Date: 03/11/2019

End of Public Comment: 03/30/2019

Authority for this Rulemaking:

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

Summary of Rulemaking Action:

1. 2019 recreational Black sea bass management (section 3.7.1): Proposed amendments to seasons and/or possession limits. Amendment being proposed is currently in effect as amended pursuant to the Department's authority under R.I. Gen. Laws § 20-1-12.1. *Modifications to possession limits and seasons for marine species managed under quotas*. This amendment was made on May 9, 2018. Proposed amendment is to sync rule with this filed amendment.
2. 2019 commercial Black sea bass management (section 3.7.2): Proposed amendments to seasons, sub-period allocations, and possession limits. This matter was brought to hearing in November 2018. At that time an alternative proposal was received as a public comment which was of interest of the fishing community and the RI Marine Fisheries Council. However, as the proposal was not included in the notice, and therefore not known to interested persons until after the close of the comment period, it was the recommendation of the Council to bring the matter back to hearing for full transparency and public vetting.
3. 2019 recreational Scup management (section 3.8.1): Proposed amendments to seasons and/or possession limits.
4. 2019 commercial Scup management regarding possession limits for trawl vessels with a minimum mesh size (section 3.8.2(C)): Proposed amendment to modify the gear based possession limit thresholds consistent with the ASMFC Fisheries Management Plan (FMP) for Scup.

5. 2019 recreational Striped bass management (section 3.9.1): No amendments are proposed.
6. 2019 commercial Striped bass general category management (section 3.9.2(A)): Proposed amendments to seasons.
7. 2019 commercial striped bass floating fish trap management (section 3.9.2(B)): No amendments are proposed.
8. 2019 recreational Summer flounder management (section 3.10.1): Proposed adoption of a special shore provision rule with a 16 inch minimum size and 2 fish possession limit.
9. 2019 commercial Summer flounder management (section 3.10.1): Proposed amendments to the days that the fishery is closed. This matter was brought to hearing in November 2018. No amendments were considered at that time due to a lack of information from the ASMFC regarding the 2019 quota, which was a result of the federal government shutdown.
10. 2019 party/charter possession limit for Tautog (section 3.11.1(B)(7)(d)): Proposed amendment to correct the possession limit from 6 to 5 fish during the October 15 through December 15 sub-period, which was inadvertently not filed resulting from a public hearing held February 2018.
11. 2019 recreational Bluefish management (section 3.18.1): No amendments are proposed.
12. 2019 commercial Bluefish management (section 3.18.2): Proposed amendments to possession limits.
13. 2019 commercial Blacknose sharks (section 3.19.2): Proposed amendments to the possession limit.
14. 2019 recreational Cod management (section 3.20.1): Proposed amendment to minimum size and possession limit.
15. 2019 commercial menhaden management (section 3.22.2):
 - Division proposal to broaden the commercial vessel restrictions to apply to all commercial vessels other than small-scale fisheries and floating fish traps; currently applies only to purse seines (section 3.22.2(A)(2)).
 - Industry proposal to restrict vessel size (section 3.22.2(A)(2)(e), and proposed new section 3.22.2(A)(2)(f)).
 - Division proposal to replace instances of "landing" with "possession" (several instances in section 3.22.2(B)).
 - Industry proposal to amend the closure trigger under the State Quota Program (section 3.22.2(B)(2)).

- Division proposal to amend the transiting rule as it pertains to the commercial menhaden fishery (proposed new section 3.22.2(B)(4)).
- Division proposal to amend the date of the end of the Episodic Event Set Aside Program for consistency with the ASMFC FMP (section 3.22.2(C)(2)).

Additional Information and Comments:

All interested parties are invited to request additional information or submit written or oral comments concerning the proposed amendment until March 30, 2019 by contacting the appropriate party at the address listed below:

Peter Duhamel
Department of Environmental Management
3 Fort Wetherill Road
Jamestown, RI 02879
peter.duhamel@dem.ri.gov

Public Hearing:

A public hearing, in accordance with R.I. Gen. Laws § 42-35-2.8, to consider the proposed amendment shall be held on March 11, 2019 at 6:00 pm at URI Bay Campus, Corless Auditorium, South Ferry Road, Narragansett, RI 02882 at which time and place all persons interested therein will be heard. The seating capacity of the room will be enforced and therefore the number of persons participating in the hearing may be limited at any given time by the hearing officer, in order to comply with safety and fire codes.

The place of the public hearing is accessible to individuals who are handicapped. If communication assistance (readers/interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call 401-423-1927 or RI Relay 711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting.

Regulatory Analysis Summary and Supporting Documentation:

N/A. DEM is directly responding to changes in federal mandates (Fisheries Management Plans) related to marine fisheries laws and federal fishery management plan directives. Exempt from ORR review

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

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

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Title of Rule: Shellfish (250-RICR-90-00-4)

Rule Identifier: 250-RICR-90-00-4

Rulemaking Action: Proposed Amendment

Important Dates:

Date of Public Notice: 02/27/2019

Hearing Date: 03/11/2019

End of Public Comment: 03/30/2019

Authority for this Rulemaking:

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

Summary of Rulemaking Action:

1. Proposed amendment to whelk measurement (section 4.9(F)):
2. Proposed adoption of a whelk pot tagging program (proposed new section 4.18)):

Additional Information and Comments:

All interested parties are invited to request additional information or submit written or oral comments concerning the proposed amendment until March 30, 2019 by contacting the appropriate party at the address listed below:

Peter Duhamel
Department of Environmental Management
3 Fort Wetherill Road
Jamestown, RI 02879
peter.duhamel@dem.ri.gov

Public Hearing:

A public hearing, in accordance with R.I. Gen. Laws § 42-35-2.8, to consider the proposed amendment shall be held on March 11, 2019 at 6:00 pm at URI Bay Campus, Corless Auditorium, South Ferry Road, Narragansett, RI 02882 at which time and place all persons interested therein will be heard. The seating capacity of the room will be enforced and therefore the number of persons participating in the hearing may be limited at any given time by the hearing officer, in order to comply with safety and fire codes.

The place of the public hearing is accessible to individuals who are handicapped. If communication assistance (readers/interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call 401-423-1927 or RI Relay 711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting.

Regulatory Analysis Summary and Supporting Documentation:

N/A. Will be submitted if regulation is adopted

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

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

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Title of Rule: RI Marine Fisheries Regulations PART 5 - Lobsters, Crabs and Other Crustaceans (250-RICR-90-00-5)

Rule Identifier: 250-RICR-90-00-5

Rulemaking Action: Proposed Amendment

Important Dates:

Date of Public Notice: 02/27/2019

Hearing Date: 03/11/2019

End of Public Comment: 03/30/2019

Authority for this Rulemaking:

R.I. Gen Laws Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with § 42-35-18(b)(5).

Summary of Rulemaking Action:

1. Division proposal to replace original lobster trap tags ordered but not initially received with catastrophic tags in the event tags were not received and are presumed lost (section 5.8.1(R)(11)(c)).

Additional Information and Comments:

All interested parties are invited to request additional information or submit written or oral comments concerning the proposed amendment until March 30, 2019 by contacting the appropriate party at the address listed below:

Peter Duhamel
Department of Environmental Management
3 Fort Wetherill Road
Jamestown, RI 02879
peter.duhamel@dem.ri.gov

Public Hearing:

A public hearing, in accordance with R.I. Gen. Laws § 42-35-2.8, to consider the proposed amendment shall be held on March 11, 2019 at 6:00 pm at URI Bay Campus, Corless Auditorium, South Ferry Road, Narragansett, RI 02882 at which time and place all persons interested therein will be heard. The seating capacity of the room will be enforced and therefore the number of persons participating in the hearing may be limited at any given time by the hearing officer, in order to comply with safety and fire codes.

The place of the public hearing is accessible to individuals who are handicapped. If communication assistance (readers/interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call 401-423-1927 or RI Relay 711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting.

Regulatory Analysis Summary and Supporting Documentation:

N/A. There is no cost associated with this proposed amendment

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

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

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Title of Rule: General Equipment Provisions (250-RICR-90-00-6)

Rule Identifier: 250-RICR-90-00-6

Rulemaking Action: Proposed Amendment

Important Dates:

Date of Public Notice: 02/27/2019

Hearing Date: 03/11/2019

End of Public Comment: 03/30/2019

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 § 42-35-18(b)(5), Administrative Procedures Act.

Summary of Rulemaking Action:

1. Clarification of open and closed periods of the Upper Narragansett Bay Trawling Area to trawling (section 6.8.2(C)(1)).
2. Clarification of area description of the Upper Narragansett Bay Trawling Area (section 6.8.2(C)(1)(a)).
3. Extension of gill net tag valid dates (section 6.8.3(I)(6)).

Additional Information and Comments:

All interested parties are invited to request additional information or submit written or oral comments concerning the proposed amendment until March 30, 2019 by contacting the appropriate party at the address listed below:

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

Public Hearing:

A public hearing, in accordance with R.I. Gen. Laws § 42-35-2.8, to consider the proposed amendment shall be held on March 11, 2019 at 6:00 pm at URI Bay Campus, Corless Auditorium, South Ferry Road, Narragansett, RI 02882 at which time and place all persons interested therein will be heard. The seating capacity of the room will be enforced and therefore the number of persons participating in the

hearing may be limited at any given time by the hearing officer, in order to comply with safety and fire codes.

The place of the public hearing is accessible to individuals who are handicapped. If communication assistance (readers/interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call 401-423-1927 or RI Relay 711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting.

Regulatory Analysis Summary and Supporting Documentation:

N/A. There is no cost associated with this proposed amendment

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

Public Hearing
March 11, 2019

Proposed/annotated amendments

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

250-RICR-90-00-3

TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 90 – MARINE FISHERIES

SUBCHAPTER 00 – N/A

PART 3 – Finfish

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3.1 Purpose

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

3.2 Authority

These rules and regulations are promulgated pursuant to R.I. Gen. Laws Title 20, R.I. Gen. Laws Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with R.I. Gen. Laws § 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

HEARING ITEM 1. – 2019 RECREATIONAL BLACK SEA BASS MANAGEMENT (section 3.7.1)

No amendments proposed

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 ~~July 2~~ **June 23**: Closed.
 - 2. ~~July 3~~ **June 24** through August 31: Three (3) fish per person per calendar day.
 - 3. September 1 through December 31: ~~Five (5)~~ **Seven (7)** fish per person per calendar day.

HEARING ITEM 2. – 2019 COMMERCIAL BLACK SEA BASS MANAGEMENT (section 3.7.2)

Option 1: Status quo.

3.7.2 Commercial

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

- a. Allocation: Nineteen and a half percent (19.5%).
 - b. Possession limit: Fifty (50) pounds per vessel per calendar day.
6. November 1 through December 31:
- a. Allocation: Eleven percent (11%).
 - b. Possession limit: Fifty (50) pounds per vessel per calendar day.

Option 2: Industry proposal

3.7.2 Commercial

- A. Minimum size: Eleven (11) inches.
- B. Seasons, allocations, and possession limits: ~~A state quota for Black sea bass will be established annually and shall be the most recent amount allocated to the State of Rhode Island by the ASMFC and/or the Secretary of the NOAA Fisheries. The quota shall be available during the following sub-periods:~~
1. January 1 through April 30:
 - a. Allocation: Twenty-five percent (25%) of the quota.
 - b. Possession limit: Five hundred (500) pounds per vessel per week.
 2. May 1 through ~~June 30~~ **July 31**:
 - a. Allocation: ~~Twenty-five percent (25%)~~ **Forty-four and one half percent (44.5%)** of the quota.
 - b. Possession limit: Fifty (50) pounds per vessel per calendar day.
 - ~~3. July 1 through July 31:~~
 - ~~a. Allocation: Nineteen and a half percent (19.5%) of the quota.~~
 - ~~b. Possession limit: Fifty (50) pounds per vessel per calendar day.~~
 4. August 1 through September 14: Closed.
 5. September 15 through ~~October~~ **December** 31:
 - a. Allocation: ~~Nineteen and a half percent (19.5%)~~ **Thirty and one half percent (30.5%)**.
 - b. Possession limit: Fifty (50) pounds per vessel per calendar day.

~~6. November 1 through December 31:~~

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

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

Option 3: Industry proposal

3.7.2 Commercial

A. Minimum size: Eleven (11) inches.

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

1. January 1 through April 30:

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

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

2. May 1 through June 30:

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

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

3. July 1 through July 31:

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

b. Possession limit: ~~Fifty (50)~~ **Eighty-five (85)** pounds per vessel per calendar day.

c. The fishery is closed Friday, Saturday, and Sunday each week.

4. August 1 through September 14: Closed.

5. September 15 through October 31:

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

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

6. November 1 through December 31:

a. Allocation: Eleven percent (11%).

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

C. Black sea bass pot construction

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

3.8 Scup

HEARING ITEM 3. – 2019 RECREATIONAL SCUP MANAGEMENT (section 3.8.1)

Option 1: Status quo.

3.8.1 Recreational

- A. Minimum size: Nine inches (9").
- B. Season: May 1 through December 31.
- C. Possession limit: Thirty (30) fish per person per calendar day.
- D. Special shore-fishing provision:
 1. Locations: India Point Park, Providence; Conimicut Park, Warwick; Rocky Point, Warwick; Stone Bridge, Tiverton; East and West Walls (Harbor of Refuge), Narragansett; Fort Wetherill, Jamestown; and Fort Adams, Newport:

2. Minimum size: Eight inches (8").
 3. Season: May 1 through December 31.
 4. Possession limit: Thirty (30) fish per person per calendar day.
- E. Licensed Party and Charter vessels seasons and possession limit:
1. May 1 through August 31: Thirty (30) fish per person per calendar day.
 2. September 1 through October 31: Forty-five (45) fish per person per calendar day.
 3. November 1 through December 31: Thirty (30) fish per person per calendar day.

Option 2:

3.8.1 Recreational

- A. Minimum size: Nine inches (9").
- B. Season: ~~May 1~~ **January 1** through December 31.
- C. Possession limit: Thirty (30) fish per person per calendar day.
- D. Special shore-fishing provision:
1. Locations: India Point Park, Providence; Conimicut Park, Warwick; Rocky Point, Warwick; Stone Bridge, Tiverton; East and West Walls (Harbor of Refuge), Narragansett; Fort Wetherill, Jamestown; and Fort Adams, Newport:
 2. Minimum size: Eight inches (8").
 3. Season: ~~May 1~~ **January 1** through December 31.
 4. Possession limit: Thirty (30) fish per person per calendar day.
- E. Licensed Party and Charter vessels seasons and possession limit:
1. ~~May 1~~ **January 1** through August 31: Thirty (30) fish per person per calendar day.
 2. September 1 through October 31: Forty-five (45) fish per person per calendar day.

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

Option 3:

3.8.1 Recreational

- A. Minimum size: Nine inches (9”).
- B. Season: May 1 through December 31.
- C. Possession limit: Thirty (30) fish per person per calendar day.
- D. Special shore-fishing provision:
 1. Locations: India Point Park, Providence; Conimicut Park, Warwick; Rocky Point, Warwick; Stone Bridge, Tiverton; East and West Walls (Harbor of Refuge), Narragansett; Fort Wetherill, Jamestown; and Fort Adams, Newport:
 2. Minimum size: Eight inches (8”).
 3. Season: May 1 through December 31.
 4. Possession limit: Thirty (30) fish per person per calendar day.
- E. Licensed Party and Charter vessels seasons and possession limit:
 1. May 1 through August 31: Thirty (30) fish per person per calendar day.
 2. September 1 through October 31: ~~Forty-five (45)~~ **Fifty (50)** fish per person per calendar day.
 3. November 1 through December 31: Thirty (30) fish per person per calendar day.

Option 4:

3.8.1 Recreational

- A. Minimum size: Nine inches (9”).
- B. Season: May 1 through December 31.
- C. Possession limit: Thirty (30) fish per person per calendar day.

D. Special shore-fishing provision:

1. Locations: India Point Park, Providence; Conimicut Park, Warwick; Rocky Point, Warwick; Stone Bridge, Tiverton; East and West Walls (Harbor of Refuge), Narragansett; Fort Wetherill, Jamestown; and Fort Adams, Newport:
2. Minimum size: Eight inches (8").
3. Season: May 1 through December 31.
4. Possession limit: Thirty (30) fish per person per calendar day.

E. Licensed Party and Charter vessels seasons and possession limit:

1. May 1 through ~~August 31~~ **June 30**: ~~Thirty (30)~~ **Fifty (50)** fish per person per calendar day.
- 2. July 1 through August 31: 30 fish per person per day.**
- 23.** September 1 through October 31: ~~Forty-five (45)~~ **Fifty (50)** fish per person per calendar day.
- 34.** November 1 through December 31: Thirty (30) fish per person per calendar day.

Option 5:

3.8.1 Recreational

- A. Minimum size: Nine inches (9").
- B. Season: May 1 through December 31.
- C. Possession limit: Thirty (30) fish per person per calendar day.
- D. Special shore-fishing provision:
 1. Locations: India Point Park, Providence; Conimicut Park, Warwick; Rocky Point, Warwick; Stone Bridge, Tiverton; East and West Walls (Harbor of Refuge), Narragansett; Fort Wetherill, Jamestown; and Fort Adams, Newport:
 2. Minimum size: Eight inches (8").
 3. Season: May 1 through December 31.
 4. Possession limit: Thirty (30) fish per person per calendar day.

- E. Licensed Party and Charter vessels seasons and possession limit:
1. May 1 through August 31: Thirty (30) fish per person per calendar day.
 2. September 1 through October 31: ~~Forty-five (45)~~ **Fifty (50)** fish per person per calendar day.
 3. November 1 through December 31: ~~Thirty (30)~~ **Fifty (50)** fish per person per calendar day.
-
-

3.8.2 Commercial

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

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

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

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

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

HEARING ITEM 4. – COMMERCIAL SCUP - GEAR-BASED POSSESSION LIMIT THRESHOLDS (section 3.8.3(C))

- C. Trawl vessel gear restrictions - minimum mesh size: Owners or operators of otter trawl vessels possessing ~~five hundred (500)~~ **greater than one-thousand (1,000)** pounds ~~or more~~ of scup from ~~November 1~~ **October 1** through April ~~30 14~~; **or greater than two-thousand (2,000) pounds of scup from April 15 through June 15**; or **greater than** two hundred (200) pounds ~~or more~~ of scup from ~~May 1~~ **June 16** through ~~October 31~~ **September 30**, 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 one hundred fifty (150) pots regardless of the number of licenses on board the vessel.
2. Pot construction - escape vents: All scup pots must be constructed with escape openings. Openings may be circular, rectangular, or square, and must be a minimum of 3.1" diameter, 2-1/4" X 5-3/4" if rectangular or may be constructed of 2-1/4" X 2-1/4" wire mesh. Escape vents must be attached with biodegradable fasteners which allow vents or panels to fall away from the trap after loss.
3. The hinges or fasteners of one panel or door must be made of one of the following degradable materials:
 - a. Un-treated hemp, jute, or cotton string 3/16" (4.8mm) or smaller;
 - b. Magnesium alloy, timed float releases (pop-up devices) or similar magnesium alloy fasteners;
 - c. Un-galvanized or uncoated iron wire of .094" (2.4mm) or smaller; or
 - d. If "bungee" cord or other elasticized material is used to fasten the top, it must be secured to the trap with a degradable hog ring.

3.9 Striped Bass

HEARING ITEM 5. – RECREATIONAL STRIPED BASS MANAGEMENT (section 3.9.1)

No amendments proposed

3.9.1 Recreational

- A. Minimum size: Twenty-eight inches (28") in total length.
- B. Season: January 1 through December 31.
- C. Possession limit: One (1) fish per person per day.

~~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

HEARING ITEM 6. – COMMERCIAL GENERAL CATEGORY STRIPED BASS MANAGEMENT (section 3.9.2(A))

Option 1: Status quo.

3.9.2 Commercial

A. General Category:

1. Minimum size: Thirty-four (34) inches or greater in total length.
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 s~~Sixty-one percent (61%) of the annual Rhode Island commercial quota.

3. Seasons and possession limits:

- a. January 1 through May 19: Closed.
- b. May 20 through August 4:
 - (1) Allocation: Seventy percent (70%) of the general category quota ~~will be available in this sub-period.~~
 - (2) Possession limit: Five (5) fish per person per calendar day, or if fishing from a vessel, five (5) fish per vessel per calendar day.
 - (3) The fishery will be closed in each calendar week on Friday and Saturday during this sub period. There will be no commercial possession or sale of Striped bass on these days for general category commercial fishermen.
 - (4) The sub-period will close once seventy percent (70%) of the general category quota is projected to be harvested if prior to August 31.
- c. August 5 through December 31:

- (1) Allocation: Thirty percent (30%) of the general category quota ~~will be available in this sub-period.~~
 - (2) Possession limit: Five (5) fish per person per calendar day, or if fishing from a vessel, five (5) fish per vessel per calendar day.
 - (3) The fishery will be closed in each calendar week on Friday and Saturday during this sub period. There will be no commercial possession or sale of Striped bass on these days for general category commercial fishermen.
 - (4) The sub-period will close when 30% of the general category quota is projected to be harvested.
 - (5) If DEM determines that the quota will be exceeded or will not be met before the end of the fall season, DEM may adjust that catch rate accordingly on or after September 15 annually.
3. If DEM estimates that the floating fish trap sector will not fully utilize its Striped bass allocation prior to the end of the season, the DEM may transfer all or a portion of the floating fish trap sector allocation into the general category fishery. DEM will consult with the floating fish trap licensees or their designee prior to enacting any such transfer, and will maintain written correspondence of this consultation.
 4. Floating fish trap allocation that has been transferred to the general category fishery in accordance with § 3.9.2(3) of this Part may be transferred back to the floating fish trap fishery. Any allocation transferred back to the floating fish trap fishery shall not exceed the amount of the original transfer.

Option 2:

3.9.2 Commercial

A. General Category:

1. Minimum size: Thirty-four (34) inches or greater in total length.
2. ~~Seasons, a~~Allocations, ~~and possession limits: During a single calendar year, the general category Striped bass fishery shall be allowed to harvest not more than s~~Sixty-one percent (61%) of the annual Rhode Island commercial quota.

3. Seasons and possession limits:

a. ~~January 1 through May 19~~ **May 20 through December 31: Closed.**

b. ~~May 20 through August 4:~~

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

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

(3) The fishery will be closed in each calendar week on Friday and Saturday during this sub period. There will be no commercial possession or sale of Striped bass on these days for general category commercial fishermen.

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

c. ~~August 5 through December 31:~~

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

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

~~(3) The fishery will be closed in each calendar week on Friday and Saturday during this sub period. There will be no commercial possession or sale of Striped bass on these days for general category commercial fishermen.~~

~~(4) The sub-period will close when 30% of the general category quota is projected to be harvested.~~

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

3. If DEM estimates that the floating fish trap sector will not fully utilize its Striped bass allocation prior to the end of the season, the DEM may transfer all or a portion of the floating fish trap sector allocation into the general category fishery. DEM will consult with the floating fish trap licensees or their designee prior to enacting any such transfer, and will maintain written correspondence of this consultation.

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

Option 3:

3.9.2 Commercial

A. General Category:

1. Minimum size: Thirty-four (34) inches or greater in total length.
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 s~~Sixty-one percent (61%) of the annual Rhode Island commercial quota.

3. Seasons and possession limits:

- a. ~~January 1 through May 19~~ **June 2 through December 31: Closed.**
- b. ~~May 20 through August 4:~~
 - (1) ~~Allocation: Seventy percent (70%) of the general category quota will be available in this sub-period.~~
 - (2) Possession limit: Five (5) fish per person per calendar day, or if fishing from a vessel, five (5) fish per vessel per calendar day.
 - (3) The fishery will be closed in each calendar week on Friday and Saturday during this sub period. There will be no commercial possession or sale of Striped bass on these days for general category commercial fishermen.
 - (4) ~~The sub-period will close once seventy percent (70%) of the general category quota is projected to be harvested if prior to August 31.~~
- c. ~~August 5 through December 31:~~
 - (1) ~~Allocation: Thirty percent (30%) of the general category quota will be available in this sub-period.~~

- ~~(2) — Possession limit: Five (5) fish per person per calendar day, or if fishing from a vessel, five (5) fish per vessel per calendar day.~~
- ~~(3) — The fishery will be closed in each calendar week on Friday and Saturday during this sub-period. There will be no commercial possession or sale of Striped bass on these days for general category commercial fishermen.~~
- ~~(4) — The sub-period will close when 30% of the general category quota is projected to be harvested.~~
- ~~(5) — If DEM determines that the quota will be exceeded or will not be met before the end of the fall season, DEM may adjust that catch rate accordingly on or after September 15 annually.~~

3. If DEM estimates that the floating fish trap sector will not fully utilize its Striped bass allocation prior to the end of the season, the DEM may transfer all or a portion of the floating fish trap sector allocation into the general category fishery. DEM will consult with the floating fish trap licensees or their designee prior to enacting any such transfer, and will maintain written correspondence of this consultation.
4. Floating fish trap allocation that has been transferred to the general category fishery in accordance with § 3.9.2(3) of this Part may be transferred back to the floating fish trap fishery. Any allocation transferred back to the floating fish trap fishery shall not exceed the amount of the original transfer.

HEARING ITEM 7. – COMMERCIAL FLOATING FISH TRAP STRIPED BASS MANAGEMENT (section 3.9.2(B))

No amendments proposed

- B. Floating Fish Trap:
1. Floating fish trap operators must be permitted pursuant to RIMFR “General Equipment Provisions,” Part 6 of this Subchapter.
 2. Allocation: During a single calendar year, the floating fish trap quota shall not be more than thirty-nine percent (39%) of the annual Rhode Island commercial quota.
 3. Minimum size: Twenty-six inches (26”) in total length.
 4. Season: April 1 through December 31.

5. Possession limit: Unlimited. Once seventy percent (70%) of the seasonal allocation is projected to be harvested the possession limit shall be five hundred (500) pounds per floating fish trap licensee per calendar day.
 6. When DEM has determined that the annual quota allocated to floating fish traps has been reached, the fishery will terminate.
 7. Reporting: All floating fish trap operators shall keep daily records of striped bass landings and report landings to SAFIS every Monday, Wednesday, and Friday, of every week that the trap is in operation.
 8. If the floating fish trap operators are found to be out of compliance with the reporting requirements, the operators will be notified, and default to following program:
 - a. April 1 through December 31: One hundred percent (100%) of the floating fish trap quota shall be available during this sub-period. Once eighty percent (80%) of the seasonal allocation is projected to be harvested the possession limit shall be 500 pounds per floating fish trap licensee per calendar day.
- C. Gillnet prohibition for Striped bass: No person shall take or possess any striped bass while gillnetting, or while hauling a gill net.
- D. Hybrid Striped Bass Cultured Striped Bass:
1. Aquaculture-reared striped bass or hybrid striped bass brought into Rhode Island for sale or resale, which is wholly or partially processed, except for cultured striped bass or hybrid Striped bass from a fish farm or processor which are a fully processed and packaged product whether fresh or frozen, shall have affixed to it a tag identifying it as an aquaculture product.
 2. Packages, containers, and each fish or fish product containing aquaculture products shall be tagged or labeled with a uniform series of 14-digit numbers and letters as shown in the example below:

MD = State of origin

123 = Permit number (producing state issued permit number)

0889 = Month and year of shipment

A1234 = Species ID and number of product

3. Each fish or fish product shall have affixed to it a tag bearing the same information listed in § 3.9.2(D)(2) of this Part.
 4. The sale of this product shall be accompanied by a receipt showing:
 - a. the date of sale;
 - b. name, address, and permit number of the aquaculture facility;
 - c. numbers and species of Striped bass sold;
 - d. name of purchaser.
 5. Fish shipped in the round and filleted by the seller, shall have the tag removed and wrapped in with the fillets when sold.
 6. The consignee of each subsequent sale shall retain a copy of the bill of lading or similar accountable document for 1 year, and make it available to the Department upon request.
- E. Commercial Striped Bass Tags: Each individual Striped bass shall be immediately marked with tags available from DEM. No Striped bass may be sold unless it has been properly identified with such tag. DEM may designate tagging agents as appropriate. All designated tagging agents shall keep and maintain the required forms and reports specified by DEM. All tag reports and unused tags must be returned to DEM by January 1st of the following year. Failure to return reports and unused tags may result in the tagging agent becoming ineligible to receive striped bass tags in the future.

3.10 Summer Flounder

HEARING ITEM 8. – RECREATIONAL SUMMER FLOUNDER MANAGEMENT (section 3.10.1)

Option 1: Status quo.

3.10.1 Recreational

- A. Minimum size: Nineteen inches (19”).
- B. Season: May 1 through December 31.
- C. Possession limit: Six (6) fish.

Option 2: Adopt a special shore provision.

3.10.1 Recreational

- A. Minimum size: Nineteen inches (19”).
- B. Season: May 1 through December 31.
- C. Possession limit: Six (6) fish.

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: Sixteen inches (16”).
- 3. Season: May 1 through December 31.
- 4. Possession limit: Two (2) fish per person per calendar day.

HEARING ITEM 9. – COMMERCIAL SUMMER FLOUNDER MANAGEMENT (section 3.10.2)

Option 1: Status quo.

3.10.2 Commercial

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

- c. Possession limit during the Winter sub-period of the Aggregate Landing Program, annually:
 - (1) Vessels not permitted in the Aggregate Landing Program but which possess a valid Exemption Certificate: One hundred (100) pounds per vessel per calendar day. When 90% of the Winter sub-period quota has been harvested as determined by the DEM, the possession limit per vessel shall be one hundred (100) pounds per calendar day.
 - (2) Vessels that do not possess a valid Exemption Certificate: One hundred (100) pounds per vessel per calendar day. When 90% of the Winter sub-period quota has been harvested as determined by the DEM, the possession limit per vessel shall be one hundred (100) pounds per calendar day.
 - (3) Aggregate Landing Program: One thousand five hundred (1,500) pounds per vessel per bi-weekly period. The bi-weekly periods shall be specified in the Aggregate Landing Permit. When 90% of the Winter sub-period quota has been harvested as determined by the DEM, the Aggregate Landing Program will terminate, and the possession limit shall be one hundred (100) pounds per vessel per calendar day.
- 2. May 1 - September 15 (Summer):
 - a. Target allocation: 35% of the annual quota.
 - b. Possession limit:
 - (1) Vessels that possess a valid Exemption Certificate: Fifty (50) pounds per vessel per calendar day. The fishery is closed Friday, Saturday and Sunday each week.
 - (2) Vessels that do not possess a valid Exemption Certificate: Fifty (50) pounds per vessel per calendar day. The fishery is closed Friday, Saturday and Sunday each week.
- 3. September 16 through 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.

Option 2: Re-open on Sunday during the Summer sub-period.

3.10.2 Commercial

- A. Minimum size: Fourteen (14) inches.
- B. Seasons, allocations, and possession limits: ~~A total annual statewide quota for Summer flounder will be established for the State by the ASMFC and/or NOAA Fisheries.~~
 1. January 1 through April 30 (Winter):
 - a. Target allocation: 54% of the annual quota.
 - b. Possession limit between January 1 and the start of the Winter sub-period of the Aggregate Landing Program, annually:
 - (1) Vessels that possess a valid RI Summer Flounder Exemption Certificate (Exemption Certificate): One hundred (100) pounds per vessel per calendar day.
 - (2) Vessels that do not possess a valid Exemption Certificate: One hundred (100) pounds per vessel per calendar day.
 - c. Possession limit during the Winter sub-period of the Aggregate Landing Program, annually:
 - (1) Vessels not permitted in the Aggregate Landing Program but which possess a valid Exemption Certificate: One hundred (100) pounds per vessel per calendar day. When 90% of the Winter sub-period quota has been harvested as determined by the DEM, the possession limit per vessel shall be one hundred (100) pounds per calendar day.
 - (2) Vessels that do not possess a valid Exemption Certificate: One hundred (100) pounds per vessel per calendar day. When 90% of the Winter sub-period quota has been harvested as determined by the DEM, the possession limit per vessel shall be one hundred (100) pounds per calendar day.
 - (3) Aggregate Landing Program: One thousand five hundred (1,500) pounds per vessel per bi-weekly period. The bi-weekly periods shall be specified in the Aggregate Landing

Permit. When 90% of the Winter sub-period quota has been harvested as determined by the DEM, the Aggregate Landing Program will terminate, and the possession limit shall be one hundred (100) pounds per vessel per calendar day.

2. May 1 - September 15 (Summer):
 - a. Target allocation: 35% of the annual quota.
 - b. Possession limit:
 - (1) Vessels that possess a valid Exemption Certificate: Fifty (50) pounds per vessel per calendar day. The fishery is closed Friday, ~~and~~ Saturday ~~and Sunday~~ each week.
 - (2) Vessels that do not possess a valid Exemption Certificate: Fifty (50) pounds per vessel per calendar day. The fishery is closed Friday, Saturday and Sunday each week.
3. September 16 through 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.

Option 3: Re-open on Friday and Sunday during the Summer sub-period.

3.10.2 Commercial

- A. Minimum size: Fourteen (14) inches.
- B. Seasons, allocations, and possession limits: ~~A total annual statewide quota for Summer flounder will be established for the State by the ASMFC and/or NOAA Fisheries.~~
 1. January 1 through April 30 (Winter):
 - a. Target allocation: 54% of the annual quota.

- b. Possession limit between January 1 and the start of the Winter sub-period of the Aggregate Landing Program, annually:
 - (1) Vessels that possess a valid RI Summer Flounder Exemption Certificate (Exemption Certificate): One hundred (100) pounds per vessel per calendar day.
 - (2) Vessels that do not possess a valid Exemption Certificate: One hundred (100) pounds per vessel per calendar day.
 - c. Possession limit during the Winter sub-period of the Aggregate Landing Program, annually:
 - (1) Vessels not permitted in the Aggregate Landing Program but which possess a valid Exemption Certificate: One hundred (100) pounds per vessel per calendar day. When 90% of the Winter sub-period quota has been harvested as determined by the DEM, the possession limit per vessel shall be one hundred (100) pounds per calendar day.
 - (2) Vessels that do not possess a valid Exemption Certificate: One hundred (100) pounds per vessel per calendar day. When 90% of the Winter sub-period quota has been harvested as determined by the DEM, the possession limit per vessel shall be one hundred (100) pounds per calendar day.
 - (3) Aggregate Landing Program: One thousand five hundred (1,500) pounds per vessel per bi-weekly period. The bi-weekly periods shall be specified in the Aggregate Landing Permit. When 90% of the Winter sub-period quota has been harvested as determined by the DEM, the Aggregate Landing Program will terminate, and the possession limit shall be one hundred (100) pounds per vessel per calendar day.
2. May 1 - September 15 (Summer):
- a. Target allocation: 35% of the annual quota.
 - b. Possession limit:
 - (1) Vessels that possess a valid Exemption Certificate: Fifty (50) pounds per vessel per calendar day. The fishery is closed ~~Friday~~, Saturday ~~and Sunday~~ each week.

- (2) Vessels that do not possess a valid Exemption Certificate: Fifty (50) pounds per vessel per calendar day. The fishery is closed Friday, Saturday and Sunday each week.
3. September 16 through 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.

Option 4: Re-open on Saturday and Sunday during the Summer sub-period.

3.10.2 Commercial

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

Winter sub-period quota has been harvested as determined by the DEM, the possession limit per vessel shall be one hundred (100) pounds per calendar day.

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

2. May 1 - September 15 (Summer):

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

3. September 16 through December 31 (Fall):

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



C. Aggregate Landing Program:

1. Sub-periods:
 - a. Winter: Beginning on the Sunday of the first full week in February through April 30 annually, or until 90% of the Winter sub-period quota has been harvested as determined by the DEM.
2. Eligibility: An applicant vessel shall be considered eligible for a permit to participate in the Aggregate Landing Program by demonstrating to the satisfaction of the DEM and the Division of Law Enforcement each of the following:
 - a. The vessel, if harvesting Summer flounder from federal waters, possesses a valid federal Summer Flounder Moratorium Permit and RI Summer Flounder Exemption Certificate (Exemption Certificate);
 - b. The vessel's operator, if harvesting exclusively in State waters, holds a valid RI commercial fishing license to harvest or land summer flounder and possesses a valid Exemption Certificate;
 - c. The vessel's operator has not been assessed a criminal or administrative penalty in the past three years for a violation of this section or has more than one marine fisheries violation.
3. Application: Application for an Aggregate Landing Program Permit shall be made on forms as prescribed by the Director.
4. Non-compliance with the provisions of these regulations or the permit agreement shall subject both the owner and the operator to revocation of enrollment and participation in the commercial fisheries for remainder of the sub-period or the subsequent sub-period. If for any reason a sub-period does not exist by regulation, the privilege of the owner(s) and operator(s) to commercially harvest fish shall be suspended for the same calendar time period as described in the current sub-period upon adjudication.

D. Rhode Island Summer Flounder Exemption Certificate:

1. Application: Applicants shall provide each of the following:
 - a. A copy of the operator's valid current Rhode Island commercial fishing license or non-resident landing license, and Federal Fluke Permit if the summer flounder is to be taken in the EEZ;
 - b. A completed notarized application;
 - c. Proof that the vessel meets the requirements set out in this section;

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

destroyed, the replaced vessel is required to have been owned by the applicant at the time of the loss.

- (5) If the vessel is replacing a vessel that was lost by sinking or was otherwise destroyed, documentation must be presented from a licensed insurance company, U.S. Coast Guard report, or some other valid evidence of ownership to the satisfaction of the Director.
3. Transfer of an Exemption Certificate: An Exemption Certificate issued by the DEM is only valid for the vessel to which it is issued. A vessel may be sold with all certificates, permits (state and federal) and history transferred together or without the certificates, permits (state and federal) and history for purposes of replacing the vessel. In instances when a vessel owner retains all certificates, permits, and history they must be applied to a replacement vessel owned by said individual within ninety (90) days.
 - a. Change in ownership: An Exemption Certificate is presumed to transfer with the vessel whenever it is bought, sold, or otherwise transferred, unless there is a written agreement, signed by the transferor/seller and transferee/buyer, or other credible written evidence, verifying that the transferor/seller is retaining the vessel's fishing and permit history for purposes of replacing the vessel. Individuals who purchase a vessel issued an Exemption Certificate must supply credible written evidence verifying that they are the full owner of said vessel. Vessel ownership will be determined solely by an issued and valid (unexpired) US Coast Guard documentation or state registration.
 - b. Replacement Vessels: A vessel owner wishing to transfer an Exemption Certificate must provide proof to the satisfaction of the DEM that the applicant vessel is replacing a vessel and that said certificate is only applicable to the vessel for which the Exemption Certificate has been transferred.
 - (1) The vessel owner must supply credible written evidence verifying that the transferor/seller is retaining the vessel's Exemption Certificate for purposes of replacing the vessel. If a vessel owner elects to sever the Exemption Certificate from a vessel, the Exemption Certificate may be transferred only to another vessel fully owned by said vessel owner. Proof of full ownership of both vessels is required. Vessel ownership will be determined solely by an issued and valid (unexpired) US Coast Guard documentation or state registration.

- (2) Vessel permits (state and federal), Exemption Certificates, and fishing history cannot be split.
- (3) An Exemption Certificate may not be combined to create larger replacements vessels.
- (4) The replacement vessel may not exceed a 10 percent increase in length overall (LOA), a 10 percent increase in gross registered tonnage (GRT) or net tonnage (NT), or a 20 percent increase in horsepower of the vessel's baseline specifications, as applicable.
- (5) Vessel baseline specifications: The vessel baseline specifications in this section are the respective specifications (length, gross registered tonnage, net tonnage, horsepower) of the vessel that was initially issued an Exemption Certificate.
- (6) A vessel may be upgraded, whether through refitting or replacement, and be eligible to retain an Exemption Certificate, only if the upgrade complies with the following:
 - (AA) The vessel's horsepower may be increased only once, whether through refitting or replacement. Such an increase may not exceed 20 percent of the horsepower of the vessel's baseline specifications, as applicable.
 - (BB) The vessel's length, GRT, and NT may be increased only once, whether through refitting or replacement. Any increase in any of these three specifications of vessel size may not exceed 10 percent of the vessel's baseline specifications, as applicable. If any of these three specifications is increased, any increase in the other two must be performed at the same time. This type of upgrade may be done separately from an engine horsepower upgrade.

4. Exemption Certificates may not be:
 - a. Pledged, mortgaged, leased, or encumbered in any way;
 - b. Transferred with any retained right of repossession or foreclosure, or any condition requiring a subsequent transfer; or
 - c. Attached, distrained, or sold on execution of judgment.

5. Otter trawl Mesh size: Otter trawlers that land or possess 100 pounds (45.4 kg) or more of Summer flounder per day from May 1 through October 31; or 200 pounds (90.8 kg) or more of summer flounder per trip from November 1 through April 30, must fish with nets or combinations of nets that have a minimum mesh size of 5.5 inch (14.0 cm) diamond, or 6 inch (15.2 cm) square mesh applied throughout the body, extension(s) and cod end portion of the net.
6. Summer flounder may be landed between the hours of 6:00 AM to 8:00 PM only;
7. Control Date: A control date of December 31, 2010, is established for the commercial Summer flounder fishery in Rhode Island.

3.11 Tautog

3.11.1 Recreational

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

HEARING ITEM 10. – PARTY/CHARTER POSSESSION LIMIT **(section 3.11.1(B)(7)(d))**

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. June 1 through July 31: Closed.**

- ed.** August 1 through October 14: Three (3) fish per person per calendar day.
 - de.** October 15 through December 15: ~~Six (6)~~ **Five (5)** fish per person per calendar day.
 - ef.** December 16 through December 31: Closed
8. Licensed Party/charter vessels are not subject to the ten (10) fish per vessel per calendar day restriction.
 9. Reporting: Any Party and Charter vessel participating in the tautog fishery must report each trip targeting tautog into the elogbook (the electronic logbook hosted by ACCSP).

3.11.2 Commercial

- A. Minimum size: Sixteen (16) inches.
- B. Seasons, allocations, and possession limit: The total allowable harvest of tautog will be established annually, and will be that amount allocated to the State of Rhode Island by the Regional Fishery Management Council and/or the ASMFC. The quota shall only be available during the following seasons:
 1. January 1 through March 30: Closed.
 2. April 1 through May 31:
 - a. Allocation: 50% of the annual quota.
 - b. Possession limit: Ten (10) fish per vessel per day.
 3. June 1 through October 14: Closed.
 4. October 15 through December 31:
 - a. Allocation: 50% of the annual quota
 - b. Possession limit: Ten (10) fish per vessel per day.
- C. Commercial tautog tagging.
 1. No tautog shall be sold, purchased, bartered, or traded in RI unless a tautog tag issued by the Director has been affixed to the left opercula bone with the tag number displayed.
 2. All tautog harvested and landed in RI must be tagged at the time of harvest, prior to offloading.

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

3.12 American eel

3.12.1 Recreational

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

3.14 American shad

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

3.15 Atlantic herring

3.15.1 Commercial

- A. Season: The season for Atlantic herring begins annually on January 1. When the Atlantic herring quota has been harvested as determined by NOAA Fisheries, the season will close.
- B. Possession limit: 2,000 pounds per vessel per day, unless the vessel holds a RI State Waters Atlantic Herring Fishing permit.
- C. Rhode Island State Waters Atlantic Herring Fishing Permit: A permit from DEM is required for vessels engaged in the fishing and/or processing of over 2,000 pounds of Atlantic herring per day in Rhode Island state waters.
 - 1. Issuance of this permit is contingent on fishing vessel captains attending a meeting with DEM staff where they are required to give proof that:
 - a. The vessel and its captain(s) have obtained all necessary and applicable authorizations to fish for Atlantic herring in RI waters (license, endorsements(s), and vessel declarations);
 - b. The vessel captain(s) have provided a valid email address to DEM at which the captain can access while fishing for the purpose of receiving advisories pertaining to river herring;
 - c. The vessel captain(s) have received from DEM a chart of fixed commercial fishing gear locations in Rhode Island waters and will have said chart in his/her possession while engaged in the fishing and/or processing of Atlantic Herring in RI waters;
 - d. The vessel captain(s) have received from DEM a copy of all applicable regulations governing the commercial harvest of Atlantic herring in Rhode Island waters.
 - 2. Permits shall be issued annually and are valid for one calendar year from January 1 to December 31.
 - 3. Issuance of the permit is contingent upon a background check to determine if the applicant captain or vessel has been assessed a criminal or administrative penalty in the past three years of this section or 7.20 (River herring) or more than one marine fisheries violation.

- D. River Herring Bycatch Allowance: Vessels possessing a federal Atlantic herring permit fishing in federal waters may transit Rhode Island state waters and make a landing in possession of alewives, or blueback herring, *Alosa aestivalis* (river herring) provided that the count of the combined river herring is 5% or less than the count of Atlantic herring onboard the vessel.
1. The percentage of River herring in the catch will be assessed by sorting and counting a batch of fish taken from the catch of Atlantic herring on board the vessel or being landed by the vessel. This determination as to the percentage of River herring in the catch shall be accomplished by filling a container as defined herein, with a portion of the catch and examining the contents of said container. The percentage of river herring in said container shall be deemed to be representative of the percentage of River herring in the catch as a whole for purposes of a determination as to whether a vessel is in compliance with the requirements of this section.
 2. A batch of fish is defined as all fish in a separate container.
 3. A container is defined as any box, tote, bag, bucket or other receptacle capable of retaining at least 25 gallons of loose fish which may be separated from the total catch of Atlantic herring being landed.
- E. Atlantic Herring Processing: No person may process Atlantic herring for purposes other than human consumption. Direct mealing of Atlantic herring is prohibited.
- F. Atlantic Herring - Vessel Size and Horsepower: No vessel harvesting Atlantic herring in the Atlantic coast herring fishery shall exceed 165 feet in length overall, and 3,000 horsepower.

3.16 Atlantic salmon

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

3.17 Atlantic sturgeon

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

HEARING ITEM 11. – RECREATIONAL BLUEFISH (section 3.18.1)

No amendments proposed

3.18 Bluefish

3.18.1 Recreational

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

HEARING ITEM 12. – COMMERCIAL BLUEFISH MANAGEMENT (section 3.18.2)

Option 1: Status Quo

3.18.2 Commercial

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

Option 2:

3.18.2 Commercial

- A. ~~A total allowable harvest of Bluefish will be established annually, and shall be that amount allocated to the State of Rhode Island by the Regional Fishery Management Councils and/or the ASMFC.~~
- B. Minimum size: Twelve inches (12”).
- C. Seasons and possession limits:
1. January 1 through April 30: One thousand (1,000) pounds per vessel per bi-week.
 2. May 1 through second Saturday in November: ~~Six thousand (6,000)~~ **Eight thousand (8,000)** pounds per vessel per week.
 3. Second Sunday in November through December 31: Five hundred (500) pounds per vessel per week.

Option 3:

3.18.2 Commercial

- A. ~~A total allowable harvest of Bluefish will be established annually, and shall be that amount allocated to the State of Rhode Island by the Regional Fishery Management Councils and/or the ASMFC.~~
- B. Minimum size: Twelve inches (12”).
- C. Seasons and possession limits:
1. January 1 through April 30: ~~One thousand (1,000)~~ **Five hundred (500)** pounds per vessel per bi-week.
 2. May 1 through second Saturday in November: ~~Six thousand (6,000)~~ **One thousand (1,000)** pounds per vessel per week.
 3. Second Sunday in November through December 31: ~~Five hundred (500)~~ **Two hundred fifty (250)** pounds per vessel per week.

3.19 Coastal sharks

3.19.1 Recreational

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

3. Scalloped hammerhead, Smooth hammerhead, and Great hammerhead shark: Minimum fork length is 78 inches.
 4. Shortfin Mako: Minimum fork length is 83 inches.
- D. Shore-based possession limits:
1. One (1) shark per person per calendar day, with one additional bonnethead and one (1) additional Atlantic sharpnose shark per person per calendar day.
 2. Smoothhound sharks: Unlimited.
- E. Vessel-based possession limits:
1. Smoothhound, Non-Blacknose Small Coastal, and Pelagic shark species groups: Unlimited.
 2. Aggregated Large Coastal and Hammerhead species groups: Twenty-five (25) sharks per vessel per day, adjusting to between fifty-five (55) and zero (0) sharks per vessel per day during the fishing year as determined by NOAA Fisheries.
 3. It shall be unlawful for any person to possess any species of shark in state waters when NOAA Fisheries prohibits the possession of that species in federal waters.
- F. Authorized gear: No person fishing recreationally shall take sharks by any method other than rod and reel or handline. Handlines are defined as a mainline to which no more than two gangions or hooks are attached; retrieved by hand, not by mechanical means; and attached to, or in contact with, a vessel.
1. Any vessel using Rod and Reel, must adhere to the following:
 - a. Use corrodible circle hooks, which are defined as non-offset hooks with the point turned perpendicularly back to the shanks; and
 - b. Maximize gear removal, as safely as possible, when releasing sharks.

HEARING ITEM 13. – COMMERCIAL BLACKNOSE SHARK MANAGEMENT (section 3.19.2)

3.19.2 Commercial

- A. Commercial species groups: Coastal sharks are grouped into commercial species groups as follows:

1. Prohibited: Sand tiger, Bigeye sandtiger, Whale, Basking, White, Dusky, Bignose, Galapagos, Night, Reef, Narrowtooth, Caribbean sharpnose, Smalltail, Atlantic angel, Longfin mako, Bigeye thresher, Sharpnose sevengill, Bluntnose sixgill, **Blacknose**, and Bigeye sixgill shark.
 2. Research: Sandbar shark.
 3. Smoothhound: Smooth dogfish and Florida smoothhound shark.
 4. Non-Blacknose Small Coastal: Atlantic sharpnose, Finetooth, and Bonnethead shark.
 5. Blacknose: Blacknose shark.
 6. Aggregated Large Coastal: Silky, Tiger, Blacktip, Spinner, Bull, Lemon, and Nurse shark.
 7. Hammerhead: Scalloped hammerhead, Great hammerhead, and Smooth hammerhead shark.
 8. Pelagic: Shortfin mako, Porbeagle, Common thresher, Oceanic whitetip, and Blue shark.
- B. Prohibited species: Taking or possessing any of the species of sharks in the Prohibited and Research species groups is prohibited:
- C. Fishing year: January 1 through December 31.
- D. Quota specification:
1. Smoothhound sharks: A total annual statewide quota will be established for the State by the ASMFC and/or NOAA Fisheries.
 2. Species groups other than Smoothhound sharks will be established annually by the ASMFC and/or NOAA Fisheries.
- E. Seasons: Seasonal periods for commercial shark fisheries may be established annually either through NOAA Fisheries, ASMFC, or DEM.
- F. Possession limit: ~~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: Twenty-five (25) sharks per vessel per day, adjusting to between fifty-five (55) and zero (0) sharks per vessel per day during the fishing year as determined by NOAA Fisheries.

3. It shall be unlawful for any person to possess any species of shark in state waters when NOAA Fisheries prohibits the possession of that species in federal waters.
- G. Display and research of sharks: No person shall possess, transport, sell or offer to sell any of the shark species listed in the Prohibited and Research Species groups without a valid state collector's permit obtained from the Director. Any person so authorized shall:
1. Report to the Director within thirty (30) days of possession the species identification, length, weight, date, and location where caught by latitude and longitude coordinates, and the gear used; and
 2. For each shark taken for live display, the holder of the permit shall also report to the Director annually by December 31 for the life of the shark. The report shall include all of the information specified in the original report to the Director pertaining to the sharks, as well as updated information on the length and weight of the shark.
- H. Authorized sale: No person shall sell any shark species to a person or dealer who does not possess a Rhode Island commercial dealer license, and a federal Commercial Shark Dealer Permit issued by the NOAA Fisheries.
- I. Authorized commercial gear: No person shall take or possess sharks using any method other than the following gear types:
1. Rod & reel. Any vessel using Rod and Reel, must adhere to the following:
 - a. Use corrodible circle hooks, which are defined as non-offset hooks with the point turned perpendicularly back to the shanks; and
 - b. Maximize gear removal, as safely as possible, when releasing sharks.
 2. Handlines, which are defined as a mainline to which no more than two gangions or hooks are attached. A handline is retrieved by hand, not by mechanical means, and must be attached to, or in contact with, a vessel;
 3. Small mesh gillnets which are defined as having a stretch mesh size smaller than five (5) inches;
 4. Large mesh gillnets which are defined as having a stretch mesh size equal to or greater than five (5) inches. Any vessel using large-mesh gillnets, must use nets that are shorter than 2.5 kilometers;
 5. Trawl nets;

6. Shortlines which are defined as fishing lines containing fifty (50) or fewer hooks and measuring less than five hundred (500) yards in length. A maximum of two (2) shortlines shall be allowed per vessel. Any vessel using a shortline shall adhere to the following:
 - a. Use corrodible circle hooks, which are defined as non-offset hooks with the point turned perpendicularly back to the shanks; and
 - b. Practice the protocols, and possess the federally required release equipment, for pelagic and bottom longlines for the safe handling, release, and disentanglement of sea turtles and other non-target species; and
 - c. All captains and vessel owners must be certified in using, handling and release equipment. Captains and vessel owners can become certified by attending a Protected Species Safe Handling, Release, and Identification Workshop offered by NOAA Fisheries.
 7. Pound nets/fish traps;
 8. Weirs.
- J. 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

HEARING ITEM 14. – RECREATIONAL COD MANAGEMENT (section 3.20.1)

3.20.1 Recreational

- A. Minimum size: ~~Twenty-two inches (22")~~ Vessels in state waters may harvest, possess, or land cod in state waters at the minimum size equal to that allowable for federal waters, Outside Gulf of Maine (GOM) Regulated Mesh Area as codified at 50 C.F.R. §648.89.b. A summary of the current minimum size for Atlantic Cod in federal waters, Outside GOM Regulated Mesh Area can be found at NOAA Fisheries: <https://www.greateratlantic.fisheries.noaa.gov/sustainable/recfishing/regs/index.html>.
- B. Possession limit: ~~Ten (10) fish per person per calendar day.~~
1. Ten (10) fish per person per calendar day.
 2. Vessels in possession of a federal permit authorizing the recreational harvest of cod in federal waters may harvest, possess, or land cod in state waters in the amount equal to the federal regulations.

3.20.2 Commercial

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

3.21 Haddock

3.21.1 Recreational

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

3.21.2 Commercial

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

3.22 Menhaden

3.22.1 Recreational

- A. Minimum size: No minimum size.
- B. Season: January 1 through December 31.
- C. Possession limit:
 - 1. Less than or equal to four (4) inches in total length: Unlimited.

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

HEARING ITEM 15. – COMMERCIAL MENHADEN MANAGEMENT (section 3.22.2)

3.22.2 Commercial

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

menhaden by purse seine provided that the state's quota has not been exhausted or if the Episodic Event Set Aside Program has been enacted in RI.

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

2. ~~Purse seine~~ **Commercial vessel** restrictions:

a. This section does not apply to small scale fisheries as defined in § 3.22.2(D)(1)(b) of this Part, or floating fish traps.

ab. The use of purse seines shall be permitted only in accordance with the following terms and conditions:

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

bc. The possession or taking of menhaden by ~~purse seine~~ **a fishing vessel engaged in the commercial menhaden fishery** is prohibited in the following areas:

- (1) Providence River: Described as the waters north of a line extending from Rocky Point to Conimicut Light in the city of Warwick, and further extending to Nayatt Point in the town of Barrington.
- (2) Greenwich Bay: Described as the waters of Greenwich Bay west and north of a line extending from the flag pole on Warwick Point to Sandy Point in the city of Warwick.

ed. The possession or taking of menhaden by ~~purse seine~~ **a fishing vessel engaged in the commercial menhaden fishery** is prohibited on any Saturday, Sunday, official state holiday, or prior to sunrise or following sunset.

3. ~~Commercial vessel restrictions:~~

~~ae. **Fish storage capacity:** 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, **engaging in commercial fishing operations**, each vessel must be inspected by a certified marine surveyor **and for the purpose of assessing with regard to its the size of 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.~~~~

~~f. **Vessel length: Vessels shall not exceed eighty (80) feet in length.**~~

B. ~~Landing **Possession** of menhaden in RI under State Quota Program: An annual statewide quota for menhaden is established annually for the State by the ASMFC. The quota shall pertain solely to landings of menhaden in RI and shall not pertain to the possession of menhaden in RI waters prior to landing.~~

- ~~1. The landing limit is 120,000 pounds/vessel/day until the quota has been reached, as determined by the DEM.~~
- ~~2. Once **50% of** the quota has been reached, the fishery will close for directed fisheries, including but not limited to purse seine operations, and the incidental catch fishery will be in effect **possession limit will be 80,000 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.~~

~~**4. The transiting provision in § 1.6(C)(1)(b) of this Subchapter does not apply to the commercial menhaden fishery. Any vessel transiting state waters must abide by the current state possession limit.**~~

C. Episodic Event Set Aside Program:

1. After the State's quota has been reached, if RI is approved to participate in the Episodic Event Set Aside Program for Menhaden, as established by the ASMFC, the **landing possession** limit for menhaden will be 120,000 pounds per vessel per day, until the Set Aside quota has been exhausted, as determined by the ASMFC and/or the DEM, at which time the program will end and the directed fishery will close. Vessels that target and land

menhaden in RI under this program must harvest only from RI waters and, if operating in the Management Area, must adhere to all the provisions as specified in § 3.22.2(A) of this Part.

2. The Episodic Event Set Aside Program will end on ~~November 1~~ **October 31** annually, or when the Set Aside quota has been harvested, whichever first occurs.

D. Incidental catch Fishery:

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

a. Possession limit:

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

b. Gear Types:

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

E. ~~Purse-seine~~ **Commercial vessel** reporting requirements:

1. This section does not apply to small scale fisheries as defined in § 3.22.2(D)(1)(b) of this Part, or floating fish traps.

- 12.** 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.
- 23.** Each person engaging in the commercial menhaden fishery shall contact the DEM at (401) 423-1940 at the end of each day to report the area fished and the amount of menhaden in possession by the fisher in pounds.

- F. Prohibition on the harvesting of menhaden for reduction processing: The taking of Menhaden for reduction (fish meal) purposes is prohibited in Rhode Island waters. A vessel will be considered in the reduction (fish meal) business if any portion of the vessel's catch is sold for reduction.
- G. No person may transfer or attempt to transfer at sea, from one vessel to another, any finfish identified in these regulations.
- H. Possession limit ~~and landing limit~~ compliance: It shall be unlawful for any ~~purse seine~~ **commercial menhaden fishing** operation ~~and/or company~~ to land more than one possession limit ~~and/or landing limit~~ per day.

3.23 Monkfish

3.23.1 Recreational

- A. Minimum size: Seventeen inches (17") total length or eleven inches (11") tail length.
- 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.
- B. Fishing year: The commercial monkfish fishery shall operate on a May 1 through April 30 fishing year.
- C. Possession limit:
 - 1. Non-federally permitted RI licensed vessel: 700 pounds tail weight or 2,037 pounds whole weight per vessel per calendar day. Whole weight is defined as the weight of monkfish that are gutted (i.e. stomach, liver, and other entrails removed) and have the head and tail attached. In SAFIS landing monkfish in the "whole" is reported using the grade "gutted, head on, tail on."
 - a. The possession of monkfish livers may not exceed the number of gutted-fish and tails combined.
 - b. The possession of monkfish heads may not exceed the number of gutted-head-off-fish and tails combined.

2. The possession limit may be modified on the basis of a RI state water monkfish quota as set by DEM, which shall be equal to 3% of the federal Southern Management Area (SMA) Total Allowable Landings (TAL) as specified by NOAA Fisheries. When 2% of the SMA TAL has been harvested as determined by the DEM, the possession limit will decrease to 50 pounds tail weight or 166 pounds whole weight per vessel per calendar day for the remainder of the fishing year.
- D. Vessels in possession of a federal permit authorizing the harvest of monkfish may harvest monkfish in state waters if and only if they are operating during a previously and properly declared day-at-sea; in such instances, such vessels may harvest monkfish in the amount authorized to be possessed pursuant to federal regulations.

3.24 Pollock

3.24.1 Recreational

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

3.24.2 Commercial

- A. Minimum size: Nineteen inches (19”).
- B. Fishing year: The commercial pollock fishery shall operate on a May 1 through April 30 fishing year.
- C. Possession limit:
 1. There is no commercial possession limit for pollock provided the vessel is fishing in state waters and does not have a federal permit authorizing the harvest of pollock.

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

3.25 River herring

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

3.26 Skate

3.26.1 Recreational

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

3.26.2 Commercial

- A. Fishing year: May 1 through April 30 annually.
- B. State-waters skate wing fishery: Shall be defined as skate harvested, possessed, or landed by a vessel:
 1. Fishing in state waters, not on a previously declared Day At Sea (DAS), and without an active federal open-access skate permit; and
 2. For food for human consumption with a designated ACCSP Disposition Code 001 = Food.
 3. Minimum size: No minimum size.
 4. Possession limit: 18,200 pounds per vessel per week for wings only; or 41,314 pounds per vessel per week for whole skate.
 - a. Barndoor skate shall not comprise more than 25% of total skate wing by weight per vessel per day at the time of landing.
 - b. Barndoor skate shall be kept separate from other species harvested.
 - c. When in possession of barndoor skate, vessels are prohibited from discarding any skate species that has been winged.
- C. Skate bait fishery: Shall be defined as skate harvested, possessed, or landed by a vessel:
 1. Fishing in state waters, not on a previously declared DAS, without an active federal open-access skate permit, and without a federal skate bait Letter of Authorization (LOA); and

2. For use as bait with a designated ACCSP Disposition Code 008 = Bait.
3. Maximum length: Whole skates must measure less than twenty-three (23) inches total length.
4. Seasons and possession limits:
 - a. Sub-period I - May 1 through July 31:
 - (1) Possession Limit: 25,000 pounds whole skate per vessel per day. When NOAA Fisheries determines that 90 percent of a bait skate TAL for Sub-period I is landed, the possession limit will be reduced to an incidental catch limit of 8,000 pounds whole skate.
 - b. Sub-period II - August 1 through October 31:
 - (1) Possession Limit: 25,000 pounds whole skate per vessel per day. When NOAA Fisheries determines that 90 percent of a bait skate TAL for Sub-period II is landed, the possession limit will be reduced to an incidental catch limit of 8,000 pounds whole skate.
 - c. Sub-period III - November 1 through April 30:
 - (1) Possession Limit: 12,000 pounds whole skate per vessel per day. When NOAA Fisheries determines that 80 percent of a bait skate TAL for Sub-period III is landed, the possession limit will be reduced to an incidental catch limit of 8,000 pounds whole skate.
 - d. Possession limit adjustments: Following the implementation of the incidental catch limit, additional adjustments may be enacted, in accordance with actions by NOAA Fisheries.
 - (1) To ensure the skate bait fishery does not exceed its seasonal or annual TAL, the fishery will close when NOAA determines that 100% of the skate bait TAL for a season is to be harvested.
 - (2) To achieve the seasonal or annual TAL, incidental possession limits may be lifted, reinstating the standard seasonal possession limit.

3.26.3 Prohibited species

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

3.27 Spiny dogfish

3.27.1 Commercial

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

3.28 Yellowtail flounder

3.28.1 Recreational

- A. Minimum size: Thirteen inches (13”).
- B. Fishing year: The recreational Yellowtail flounder fishery shall operate on a May 1 through April 30 fishing year.
- C. Possession Limit:
1. There is no recreational possession limit for Yellowtail flounder provided the vessel is fishing in state waters and does not have a federal permit authorizing the harvest of Yellowtail flounder.

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

3.28.2 Commercial

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

3.29 Weakfish

3.29.1 Recreational

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

3.29.2 Commercial

- A. Minimum size: Sixteen inches (16”).
- B. Seasons and possession limits:
 1. June 1 through June 30: One hundred (100) pounds per vessel per calendar day.
 2. August 7 through November 8: One hundred (100) pounds per vessel per calendar day.
 3. At all other times, the possession limit is one hundred (100) pounds per vessel per calendar day as bycatch only with an equivalent poundage of other species required to be on board the vessel. Provided, however, that the commercial hook and line fishery is not permitted a bycatch allowance.

- C. For directed trawl operations, cod end mesh size must be ≥ 4.5 " diamond or 4.0" square.

3.30 Winter Flounder

3.30.1 Recreational

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

3.31.2 Commercial

- A. Minimum size: Thirteen inches (13”).
- B. Fishing year: The commercial Witch flounder fishery shall operate on a May 1 through April 30 fishing year.
- C. Possession limit:
 - 1. There is no commercial possession limit for Witch flounder provided the vessel is fishing in state waters and does not have a federal permit authorizing the harvest of Witch flounder.

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

Public Hearing
February 11, 2019

Proposed/annotated amendments

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

250-RICR-90-00-4

TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 90 – MARINE FISHERIES

SUBCHAPTER 00 – N/A

PART 4 – Shellfish

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4.1 Purpose

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

4.2 Authority

These Rules and Regulations are promulgated pursuant to R.I. Gen. Laws Title 20, R.I. Gen. Laws Chapters 42.17.1, 42-17.6, and 42-17.7, and in accordance with R.I. Gen. Laws Chapter 42-35, Administrative Procedures Act.

4.3 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.

4.4 Definitions

See Marine Fisheries Definitions, Part 1 of this Subchapter.

4.5 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.

4.6 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.

4.7 General Provisions

- A. Recreational harvest: Shellfish harvested recreationally shall not be sold or offered for sale.
- B. No person shall take shellfish from waters declared polluted by the Director pursuant to R.I. Gen. Laws § 20-8.1-3 unless authorized by the Director (ref. R.I. Gen. Laws § 20-8.1-5). This sub-section shall not apply to the harvest of whelk or bay scallop. For the water quality status of shellfish grounds subject to conditional closures or emergencies call 401-222-2900. (R.I. Gen. Laws § 20-8.1)
- C. Night shellfishing prohibited: The harvesting of shellfish is prohibited during the hours between sundown and sunrise (R.I. Gen. Laws § 20-6-23).
- D. Opening shellfish on water: No person shall possess the meats of six (6) or more shellfish while shellfishing on the waters of the State, or throw the shells of open bay scallops onto bay scallop beds (R.I. Gen. Laws § 20-6-21).

E. ~~Conch (wWhelk)~~ – general provisions:

1. Mutilation and/or possession of ~~conch~~ **whelk** meat; cooked or uncooked: Prior to landing of any ~~conchs~~ **whelk**, no person shall mutilate any cooked or uncooked ~~conch~~ **whelk** by breaking and removing the meat from the shell or have in his or her possession any part or parts of any uncooked ~~conch~~ **whelk** so mutilated. In any and all prosecutions under this sub-section, the possession of any part or parts of any cooked or uncooked ~~conch~~ **whelk** so mutilated shall be prima facie evidence sufficient to convict. All ~~conchs~~ **whelks** are to be landed whole in the shell.

~~2. Unauthorized hauling of conch pots: No person except the Director may haul, unduly disturb, or remove any animal from a conch pot of a person possessing a valid commercial fishing license to take conch, or from a person fishing recreationally for conch, without the written permission of that person.~~

~~3. Unauthorized possession and/or transfer of conch pots: No person except the Director may sell, transfer, or have in his or her possession or control any conch pot or associated line (warp) and/or buoy, without the written permission of the owner.~~

- ~~4~~2. Hauling or setting ~~conch~~ **whelk** pots at night: No person shall haul or unduly disturb any ~~conch~~ **whelk** pot within the territorial waters of this state between the hours of one (1) hour after sundown and one (1) hour before sunrise.

F. License Required:

Commented [DP(1)]: Proposing to change all instance of "conch" to "whelk"

Commented [DP(2)]: Duplicate with general pot provisions in Part 6

1. Recreational harvest – R.I. resident: R.I. residents are not required to obtain a license for the recreational harvest of shellfish (R.I. Gen. Laws § 20-6-1).
2. Recreational harvest – non-resident: A non-resident over the age of twelve (12) years wishing to take or possess shellfish recreationally in Rhode Island waters must obtain shellfish license (R.I. Gen. Laws § 20-2-22):
 - a. Annual: The fee for an annual shellfish license is two hundred dollars (\$200). This license will expire on the last day in February annually.
 - b. 14-day: The fee for a fourteen (14) day tourist license is eleven dollars (\$11). This license is valid for fourteen (14) consecutive days only, including the date of issue, and is limited to one (1) license per person per calendar year.
 - c. Non-resident landowner: A non-resident landowner may, with proof of residential property ownership in the form of a current tax bill from a town or city hall showing that the non-resident landowner is current in his or her property tax obligation, obtain an annual, non-commercial, non-resident shellfish license for a fee of twenty-five dollars (\$25) (R.I. Gen. Laws § 20-2-22(d)).
3. Commercial harvest: See specific requirements and conditions in DEM's Part 2 of this Subchapter, "Commercial and Recreational Saltwater Fishing Licensing Regulations".
 - a. A commercially licensed fisherman shall only sell, barter, or trade shellfish taken from Rhode Island waters to a licensed shellfish dealer or multipurpose dealer.
 - b. A commercially licensed fisherman shall not sell, deliver, or otherwise transfer shellfish taken from Rhode Island waters to a licensed shellfish or multipurpose dealer without first presenting said dealer, a valid shellfish license issued by the DEM.

4.8 Equipment Provisions and Harvest Methods

- A. SCUBA prohibition: The taking of shellfish by the use of a self-contained underwater breathing apparatus (SCUBA) from Green Hill Pond, Quonochontaug Pond, Ninigret Pond, and Potter Pond is prohibited (R.I. Gen. Laws § 20-6-30).
- B. The use of a diving apparatus is prohibited while recreational shoredigging.
- C. Use of devices capable of harvesting shellfish while in polluted areas: No person shall work, cast, haul, or have overboard a dredge, pair of tongs, rake or rakes,

air-assisted equipment, water-assisted equipment, or any other implement capable of harvesting shellfish, except for the taking of ~~ocean~~ **whelk** in pots and the use of an implement commonly employed for the taking of bay scallops (within established bay scallop harvest seasons), in waters declared polluted by the Director (R.I. Gen. Laws § 20-8.1-6).

- D. Power hauling of tongs and bullrakes: Power hauling of tongs and bullrakes for any purpose other than the removal and retrieval of bullrakes and tongs from the benthic sediments is prohibited.
- E. Method of harvest of oysters, bay quahaugs, soft-shell clams: No person shall dig and/or take any oysters, bay quahaugs, soft-shell clams from the waters of this State by dredge(s), rakes, or other apparatus operated by mechanical power or hauled by power boats, unless as provided for in these regulations.
- F. Dimensions for bullrakes and tongs when using power hauling equipment: No person shall use any power hauling equipment in the operation of bullrakes and tongs with dimensions exceeding the following:
 - 1. Maximum width measured along a line parallel to the tooth bar: Thirty-one and one-half (31½) inches;
 - 2. Maximum tooth length: Four and one-half (4½) inches;
 - 3. Maximum basket depth: Twelve (12) inches, measured along a line perpendicular to the tooth bar and extending from the tooth bar to any point on the basket.
 - 4. Possession of bullrakes and tongs in excess of these size restrictions shall be prohibited aboard vessels equipped with any power hauling equipment.
 - 5. Except as required for safety or to avoid property loss, no vessel involved in the harvest of bay quahaugs or oysters by use of bullrakes or tongs may be moved or propelled by any source of mechanical power at any time when any bullrakes or tongs operated from such vessel are submerged in the waters of the state.
- G. Tong construction: No person shall take shellfish, or attempt to take shellfish, or have in his possession while on the waters of this State, with tongs not meeting the following dimensions:
 - 1. Minimum tooth gap: Not less than one (1) inch apart.
 - 2. Heads: Heads on the bar or heads constructed with wires, rods, cross-bars, or reinforcement that will form a rectangle shall not be less than one (1) inch by two and one half (2½) inches.
 - 3. A tolerance of one sixteenth (1/16) of an inch is allowed.

- H. Bullrake construction: No person shall take shellfish, or attempt to take shellfish, or have in his possession while on the waters of this State, with a bullrake not meeting the following dimensions:
1. Minimum tooth or tine gap: Not less than one (1) inch apart.
 2. Crossbars or reinforcement that will form a rectangle shall not be less than one (1) inch by two and one half (2½) inches.
 3. A tolerance of one sixteenth (1/16) of an inch is allowed.
- I. Quahaug diving basket construction: No commercially licensed diver shall take or attempt to take quahaugs from the waters of the State of Rhode Island with a diver's quahaug harvesting basket, bag, or combination of basket and bag, or similar device not meeting the following dimensions:
1. Bar spacing: Not less than one (1) inch by two and one half (2½) inches. A tolerance of one sixteenth (1/16) inch is allowed.
 2. Bag mesh on the quahaug harvesting basket: Not less than two (2) inches when measured on the stretch (from inside of knot to inside of the knot). A tolerance of one eighth (1/8) inch for variance in the twine is allowed. The bag shall be hung on the square so that when held by the mouth, the twine forms fully opened squares.
- J. Dredging of bay scallops:
1. Maximum number of single dredges used: Six (6) single dredges.
 2. Maximum width of dredge blades: Twenty-eight (28) inches.
 3. Maximum length of bag: Thirty-six (36) inches.
 4. Each single dredge shall be towed and hauled aboard the registered vessel individually. All oysters, soft-shell clams, or bay quahaugs shall be immediately returned to the waters from which they were taken (R.I. Gen. Laws §§ 20-6-7 and 20-6-19).
 5. Areas where bay scallop dredging is prohibited: The use of bay scallop dredges is prohibited in closed areas of Shellfish Management Areas, ~~as identified in these regulations.~~
- K. Dredging of blue mussels:
1. When dredging for blue mussels, all bay scallops, oysters, or bay quahaugs shall be immediately returned to the waters from which they were taken (R.I. Gen. Laws § 20-6-7).

2. Blue Mussel Dredging Permit: A permit issued from the Director is required for the commercial dredging for blue mussels. Applications shall be made annually on forms prescribed by the Director ~~and may be obtained by contacting the DEM Marine Fisheries, 3 Fort Wetherill Road, Jamestown, RI 02835 (423-1923)~~ (R.I. Gen. Laws § 20-6-7).

L. Dredging of surf clams and ocean quahaugs:

1. Surf clam gear restrictions:
 - a. Hydraulic dredging: The maximum width of a dredge blade, knife or manifold is forty-eight (48) inches.
 - b. Multiple dredge restriction: It is unlawful for any vessel to operate more than one dredge while harvesting for surf clams.
2. Areas prohibited for the dredging of surf clams or ocean quahaugs: All waters north of a line extending from Church Point in the town of Little Compton, to Flint Point in the town of Middletown; and north of a line extending from Castle Hill Point in the city of Newport, to Southwest Point in the town of Jamestown and to Bonnet Point in the town of Narragansett.
3. Tagging of cages: Shellfish cages must be tagged in accordance with the United States Food and Drug Administration/RIDOH regulations before being off-loaded in Rhode Island.

M. Dredging for sea scallops:

1. Maximum dredge size for a vessel in possession of sea scallops: Ten and one-half (10½) feet.
2. Minimum dredge ring size: Four (4) inches.
3. The minimum mesh size of a net, net material or any other material on the top of a sea scallop dredge (twine top) possessed or used by vessels fishing with sea scallop dredge gear/net size of twine top is ten (10) inch square or diamond mesh.

4.9 Minimum Sizes

- A. Bay quahaug: One-inch (1") shell thickness (hinge width) (R.I. Gen. Laws § 20-6-11).
- B. Soft-shell clam: Two inches (2") measured as the shell diameter or parallel to the long axis of the clam (R.I. Gen. Laws § 20-6-11).
- C. Oyster: Three inches (3") measured parallel to the long axis of the oyster (R.I. Gen. Laws § 20-6-11).

- D. Bay scallop: The taking or possession of a seed Bay scallop is prohibited. Seed bay scallops shall be immediately returned to their natural beds in the water from which taken (R.I. Gen. Laws § 20-6-17).
- E. Surf clam: Five inches (5") measured parallel to the long axis of the clam.
- F. Sea scallop: Three and one-half inches (3½"), measuring in a straight line from the hinge to the part of the shell furthest from the hinge, whether caught within the jurisdiction of this State or otherwise.

HEARING ITEM 16. – Whelk minimum size measurement (section 4.9(G))

- G. ~~Conec~~ **Whelk**: Three inches (3")(~~76.2mm~~)-shell width ~~or five and three eighths inches (5 3/8")~~(136.5 mm)-shell length.
 - 1. **Shell width is measured as the longest straight-line distance from one shell margin to the opposite shell margin when the shell is positioned flat on a horizontal surface with the aperture opening facing down, and oriented such that the columella axis is parallel to a vertical surface.**

4.10 Seasons

- A. Bay quahaug, soft-shell clam, blue mussel, sea scallop, ~~conec whelk~~, surf clam, and ocean quahaug:
 - 1. Open daily in waters other than Shellfish Management Areas, unless otherwise closed due to pollution or other management purposes.
- B. Oyster: September 15 through May 15 annually.
- C. Bay scallop:
 - 1. Dip-netting from a boat: Open only from the first Saturday in November through December 31 annually.
 - 2. Dredging: Open only from December 1 through December 31 annually.

4.11 Daily Possession Limits in Waters Other Than Shellfish Management Areas

- A. Recreational – R.I. resident:
 - 1. Bay quahaug, soft-shell clam, surf clam, blue mussel, and oyster: One half (½) bushel per person per day (R.I. Gen. Laws § 20-6-1).

2. Bay scallop: One bushel per person per day (R.I. Gen. Laws § 20-6-1).
 3. ~~Coneck~~ **Whelk**: One half (½) bushel per resident per day; and maximum of one bushel per vessel per day.
 - a. ~~Coneck~~ **Whelk** pot limit: Maximum of five (5) ~~conecks~~ **whelk** pots in the water at any one time.
 - b. The recreational whelk pot fishery is exempt from whelk pot tagging requirements.**
 4. Sea scallop: Forty (40) pounds shucked; or five (5) bushels of in-shell scallops per vessel per day.
- B. Recreational – Licensed non-resident:
1. Bay quahaug, soft-shell clam, surf clam, blue mussel, and oyster: One peck per person per day (R.I. Gen. Laws § 20-6-10).
 2. Bay scallop: The harvest or possession of Bay scallops by non-residents is prohibited.
- C. ~~Coneck~~ **Whelk**: The harvest or possession of ~~conecks~~ **whelk** by non-residents is prohibited.
- D. Sea scallop: Forty (40) pounds shucked; or five (5) bushels of in-shell scallops per vessel per day.
- E. Commercial:
1. Bay quahaug:
 - a. Multi-purpose (MPURP) and Principal Effort License (PEL) holders: Twelve (12) bushels per person per day (R.I. Gen. Laws § 20-6-10).
 - b. Commercial Fishing License (CFL), Student shellfish license, and Over-65 shellfish license holders: Three (3) bushels per person per day (R.I. Gen. Laws § 20-2.1-5).
 2. Soft-shell clam: Twelve (12) bushels per person per day (R.I. Gen. Laws § 20-6-10).
 3. Oyster: Three (3) bushels per person per day (R.I. Gen. Laws § 20-6-10).
 4. Bay scallop: Three (3) bushels per person per day; and maximum of three (3) bushels per vessel per day (R.I. Gen. Laws § 20-6-16).
 5. Surf clam: Two hundred (200) bushels per person per day.

6. Ocean quahaug: Twenty-six (26) cages or eight hundred thirty two (832) bushels per person per day.
7. Sea scallops: For non-federally permitted vessels, four hundred (400) pounds of shucked; or fifty (50) bushels of in-shell scallops per vessel per day.
8. **Conch Whelk:** Thirty-five (35) bushels per vessel per day.
 - a. ~~Commercial conch pot limit: Maximum of three hundred (300) conch pots per licensee in the water at any one time.~~

4.12 Shellfish Management Areas – Descriptions, Seasons, and Possession Limits

4.12.1 General

- A. Conimicut Point, Potowomut, High Banks, Bissel Cove/Fox Island, Mill Gut, Bristol Harbor, Kickemuit River, Jenny's Creek, Sakonnet River, Pt. Judith Pond, Potter Pond, Ninigret (Charlestown) Pond, Quonochontaug Pond, Winnapaug Pond, Green Hill Pond, Narrow River, Little Narragansett Bay/Pawcatuck River, Providence/Seekonk Rivers, Warren River, and Town Pond are declared Shellfish Management Areas pursuant to R.I. Gen. Laws § 20-3-4.
- B. Shellfish Management Areas may have additional regulations specific to the Management Area. Refer to each Management Area listed below.
 1. In Shellfish Management Areas, shoredigging is open daily at reduced Shellfish Management Areas possession limits, unless closed due to pollution or other management purposes.
 2. Commercial boat harvest schedule in Shellfish Management Areas: Recommendation for a change to the default schedules specified herein shall be submitted to the Director at least sixty (60) days prior to the first proposed opening date.
 3. Greenwich Bay Area's 1 & 2:
 - a. The schedule for the month of December may include up to 48 hours of permitted shellfishing, spread over any number of days during the month, excluding December 25.
 - b. If weather or water quality conditions during the month of December prevent opening on two or more scheduled days, the DEM may modify the December schedule to allow for additional hours or days of permitted shellfishing.
- C. Daily possession limits:

1. Recreational – R.I. resident:
 - a. Bay quahaug, soft-shell clam, surf clam, blue mussel, and oyster: One peck per person per day.
 - b. Bay scallop: One bushel per person per day.
 - c. **Conch Whelk**: One half (½) bushel per resident per day; or if a vessel with more than one (1) resident onboard is used, a maximum of one (1) bushel per vessel per day.
 - d. **Conch Whelk** pot limit: Five (5) **conch whelk** pots in the water at any one time.
2. Recreational – licensed non-resident:
 - a. Bay quahaug, soft-shell clam, surf clam, blue mussel, and oyster: One half (½) peck per person per day.
 - b. Bay scallop: The harvest or possession of Bay scallops by non-residents is prohibited.
 - c. **Conch Whelk**: The harvest or possession of **Conch whelk** by non-residents is prohibited.
3. Commercial:
 - a. Bay quahaug, soft-shell clam, blue mussel, surf clam and oyster: Three bushels per person per calendar day; maximum of six (6) bushels per vessel per calendar day;
 - (1) A maximum of two (2) licensed persons per vessel is allowed.
 - (2) Possession limit for shore-digging in Greenwich Bay Management Area sub-areas 1 and 2: The possession limit is three (3) bushels per person per day whenever GB sub-area 1 is open to boat harvest, but one (1) peck per person per day whenever GB sub-area 1 is not open to boat harvest.
 - b. Bay scallop: Three (3) bushels per person per day; maximum of three (3) bushels per vessel per day.
 - c. **Conch Whelk**: Thirty-five (35) bushels per vessel per day.
~~Commercial conch pot limit: Maximum of three hundred (300) conch pots per licensee in the water at any one time.~~

4.12.2 Shellfish Management Areas

- A. Greenwich Bay (GB): Described as the waters west of a line between the flagpole at the Warwick Country Club and the end of Sandy Point on the Potowomut Shore, in the town of East Greenwich and city of Warwick.
1. GB sub-area 1: Described as the waters east of a line between the DEM range marker located at the end of Neptune Street in Chepiwanoxet to the DEM range maker located on Cedar Tree Point, and north of a line between the far northeastern section of Chepiwanoxet Point and the westernmost flagpole on Promenade Street, Old Buttonwoods.
 2. GB sub-area 2: Described as the waters west of a line between Sally Rock Point and the westernmost flagpole on Promenade Street, Old Buttonwoods; and south of a line between the far northeastern section of Chepiwanoxet Point and the westernmost flagpole on Promenade Street, Old Buttonwoods.
 3. Commercial boat harvest schedule for GB sub-areas 1 and 2:
 - a. January 4, 2016 through April 28, 2016: Open from 8:00A.M. to 12:00P.M. noon on Mondays, Wednesdays, and Fridays.
 - b. Default commercial boat harvest schedules for GB sub-areas 1 & 2: If no action is taken to establish specific harvest schedules annually, the following schedule shall be in effect by default:
 - c. Open 8:00A.M. to 12:00P.M. noon on Mondays, Wednesdays, and Fridays, beginning on the second Wednesday of December and continuing through the last Friday in April, excluding December 25 and January 1 annually.
 4. GB Area 3: Described as the waters east of a line between Sally Rock Point and the westernmost flagpole on Promenade Street, Old Buttonwoods, and west of a line between the flagpole at the Warwick Country Club and the end of Sandy Point on the Potowomut Shore.
 - a. Commercial boat harvest schedule: Open daily.
- B. Conimicut Point: Described as the waters south of a line running from the pole (Latitude: 41° 43' 2.93" North, Longitude: 71° 21' 27.68" West) on Conimicut Point to the center of the Old Tower at Nayatt Point; and north of a line from the western most extension of Samuel Gorton Avenue in the city of Warwick, and the southernmost extension of Bay Road in the town of Barrington.
1. Harvest schedule: Open daily.

2. The reduced Shellfish Management Area possession limit applies only to soft-shell clams.
- C. Potowomut: Described as the waters at the mouth of Greenwich Bay south of a line between the flagpole at the Warwick Country Club to the seaward end of Sandy Point and north of a line between and the seaward end of Pojac Point to buoy "G1" (Round Rock) to the Warwick Lighthouse, including all the waters of the Potowomut River seaward of the Forge Road Spillway, in the towns of East Greenwich and city of Warwick.
1. Area A: Described as the waters west of a line between the seaward end of Sandy Point and buoy "G1" (Round Rock) and north of a line between the seaward end of Pojac Point to buoy "G1" (Round Rock).
 - a. Harvest schedule: Open daily.
 2. Area B: Described as the triangular area east of a line between the seaward end of Sandy Point and buoy "G1" (Round Rock) and west of a line between the flagpole at the Warwick Country Club and buoy "G1" (Round Rock) and south of a line between the flagpole at the Warwick Country Club to the seaward end of Sandy Point. Area "B" is closed to shellfishing until further notice.
 - a. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting from a boat during the open season for bay scallops.
 3. Area C: Described as the waters east of a line between the flagpole at the Warwick Country Club and buoy "G1" (Round Rock) and north of a line from buoy "G1" (Round Rock) to the Warwick Lighthouse.
 - a. Harvest schedule: Open daily.
- D. High Banks: Described as the waters of the upper west passage south of a line between the seaward end of Pojac Point to the Round Rock buoy "G1" and north of a line from the seaward end of the fence between the former Davisville Navy property and Pettee Street in the Mount View section of North Kingstown to "N6" buoy located mid-bay west of Prudence Island. The area is bounded on the east by a line projecting from the easternmost end of Pier 2 at Davisville to the Round Rock buoy "G1" and is bounded to the west by the shore, in the town of North Kingstown.
1. Harvest schedule: Open daily
- E. Bissel Cove/Fox Island: Described as the waters of Bissel Cove in its entirety and adjacent waters of Narragansett Bay south of a line between Pole #275 at the corner of Waldron and Seaview Avenues and the southwestern most point of Fox Island (south of the cable area), west of a line from the southwestern most

point of Fox Island to the northern most point of Rome point, in the town of North Kingstown.

1. Commercial boat harvest schedule:
 - a. Beginning the 2nd Wednesday of December through April 30, 2016: Open daily for the harvest of bay quahaugs, soft-shell clams, and blue mussels.
 - b. May 1 through November 30 annually: Closed.
 - c. Default commercial boat harvest schedule: If a previously established boat harvest schedule expires, the following default schedule shall be in effect:
 - (1) Open 8:00 A.M. to 12:00 noon on Mondays, Wednesdays, and Fridays, beginning on the second Wednesday of December and continuing through the end of April annually. Harvest is prohibited on December 25 and January 1 annually.
 - d. Oyster harvest moratorium: The harvest and possession of oysters in the Bissel Cove/Fox Island Shellfish Management Area is prohibited until November 15, 2020.

F. Mill Gut: Described as the waters of Mill Gut, lying south of the northern-most bridge on Colt Drive, in the town of Bristol.

1. Harvest schedule: Open for the harvesting of bay quahaugs, soft-shell clams, blue mussels, and oysters only between the second Wednesday in December and April 30 annually.

G. Bristol Harbor: Described as the marine waters of Bristol Harbor and its tributaries located south of a line extending between CRMC permitted dock #419 located at 163 Poppasquash Road in the town of Bristol to and the northwest corner of the Rockwell Pier municipal parking lot in the town of Bristol; and north of a line beginning extending from the north side of CRMC Permitted Dock #1601 where it meets the shoreline, located at 363 Poppasquash Road in the town of Bristol and the northwest corner of the U.S. Coast Guard station pier in the town of Bristol.

1. Commercial boat harvest schedule:
 - a. December 2015: Closed.
 - b. Beginning January 11, 2016: Open 8:00A.M. to 12:00P.M. noon on Mondays, Wednesdays, and Fridays.

- c. February 1 through April 30, 2016: Open daily.
 - d. May 1 through November 30 annually: Closed.
 - e. Default commercial boat harvest schedule: If a previously established boat harvest schedule expires, the following default schedule shall be in effect:
 - (1) Open 8:00A.M. to 12:00P.M. noon on Mondays, Wednesdays, and Fridays, beginning on the second Wednesday of December and continuing through the end of April. Harvest is prohibited on December 25 and January 1 annually.
- H. Kickemuit River: Described as the waters of the Kickemuit River north of a line connecting nun buoy 6 and can buoy 1 at Bristol Narrows.
- 1. Harvest schedule: Open daily.
- I. Jenny's Creek: Described as the waters of Prudence Island including Jenny's Creek north of the inlet at Pine Hill Cove.
- 1. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting from a boat during the open season for bay scallops.
- J. Sakonnet River: Described as the waters north of a line from Sachuest Point to Sakonnet Light. The northern boundary is an east/west line across the Sakonnet River lying one quarter (1/4) mile south of the pipeline found just south of Black Point, so-called; the western boundary is a north/south line running from Flint Point to Taggart's Ferry, so-called, in the town of Middletown.
- 1. The possession limit for surf clams is two hundred (200) bushels/vessel/day.
 - 2. A bycatch of one (1) bushel of bay quahaugs for each ten (10) bushels of surf clams, not to exceed twelve (12) bushels of bay quahaugs, is allowed per vessel.
- K. Point Judith Pond: Described as the waters of Point Judith Pond, including East Pond, in their entireties, in the towns of South Kingstown and Narragansett.
- 1. Harvest schedule: Open daily.
- L. Potter Pond: Described as the waters of Potter Pond in its entirety, west of the bridge at Succotash Road, in the town of South Kingstown.
- 1. Harvest schedule: Open daily.

2. Closed area: The harvest and possession of shellfish is prohibited, except for the harvest of bay scallops by dip-net from a boat during the open season for bay scallops, in the following area: The area within Sycamore Cove defined as north of a line running easterly from a special DEM marker located at N 41 degrees 23 minutes 2.0 seconds, W 71 degrees 32 minutes 13.0 seconds; to a second special DEM marker located at N 41 degrees 23 minutes 1.0 second, W 71 degrees 31 minutes 59.5 seconds; and bound by the northern pond shoreline between the special DEM markers.

M. Ninigret (Charlestown) Pond: Described as the waters of Ninigret Pond in its entirety, in the town of Charlestown.

1. Harvest schedule: Open daily.
2. Western Closed area: The harvest and possession of shellfish is prohibited, except for the harvest of bay scallops by dip-net from a boat during the open season for bay scallops, in the following area: The waters within an area formed by the following points: from ("A" N 41 degrees 20 minutes 41.7 seconds W 71 degrees 41 minutes 24.3 seconds, the northeast corner of the Ninigret Conservation Area parking lot) following the shoreline to ("B" N 41 degrees 20 minutes 49.6 seconds W 71 degrees 41 minutes 4.6 seconds, a DEM sign approximately 500 meters eastward of "A"); from "B" northward to ("C" N 41 degrees 21 minutes 31.0 seconds W 71 degrees 41 minutes 22.2 seconds, the ~~Lavin's~~ **Ninigret** Landing Marina launching ramp); from "C" following the shoreline to ("D" N 41 degrees 21 minutes 10.1 seconds W 71 degrees 41 minutes 40.9 seconds, a DEM sign on the westernmost end of Reeds Point); from "D" southward to "A".
3. Foster Cove Northern Closed Area: The harvest and possession of shellfish is prohibited in the following area: The waters within an area formed by the following points: from ("A" N 41 degrees 21 minutes 58.7 seconds, W 71 degrees 40 minutes 33.8 seconds [41°21'58.7"N, 71°40'33.8"W]) to a point 125 feet south-southeast ("B" N 41 degrees 21 minutes 57.5 seconds, W 71 degrees 40 minutes 34.4 seconds [41°21'57.5"N, 71°40'34.4"W]), to a point xxx feet east-southeast ("C" N 41 degrees 21 minutes 56.5 seconds, W 71 degrees 40 minutes 31.1 seconds [41°21'56.5"N, 71°40'31.1"W]), to a point 125 north-northeast ("D" N 41 degrees 21 minutes 57.8 seconds, W 71 degrees 40 minutes 30.5 seconds [41°21'57.8"N, 71°40'30.5"W]), from "D" westward to "A".
 - a. These areas shall remain closed until January 1, 2020, unless extended by the Director after RIMFC review.
4. Foster Cove Eastern Closed Area: The harvest and possession of shellfish is prohibited in the following area: The waters within 75 feet of

shore beginning at a point ("A" N 41 degrees 21 minutes 49.3 seconds, W 71 degrees 40 minutes 24.8 seconds [41°21'49.3"N 71°40'24.8"W]) continuing along the shore to a point northwest ("B" N 41 degrees 21 minutes 52.4 seconds, W 71 degrees 40 minutes 31.0 seconds [41°21'52.4"N 71°40'31.0"W]), continuing along the shore to a point east-southeast ("C" N 41 degrees 21 minutes 51.6 seconds, W 71 degrees 40 minutes 23.6 seconds [41°21'51.6"N 71°40'23.6"W]).

- a. This area shall remain closed until January 1, 2020, unless extended by the Director after RIMFC review.

N. Quonochontaug Pond: Described as the waters of Quonochontaug Pond in its entirety, in the towns of Charlestown and Westerly.

1. Harvest schedule: Open daily.

2. Closed areas:

- a. Western closed area: The harvest and possession of shellfish is prohibited in the following area: Described as the waters south of a line running easterly from the special DEM marker at the end of Quahaug Point (N 41 degrees 20 minutes 0.0 seconds, W 71 degrees 44 minutes 39.5 seconds), to a second special DEM marker at the northern end of Nope's Island (N 41 degrees 20 minutes 5.0 seconds, W 71 degrees 44 minutes 1.0 second). The area will be bordered on the west by a line running south from Quahaug Point to a special DEM marker located on the barrier beach shoreline (N 41 degrees 19 minutes 50.0 seconds, W 71 degrees 44 minutes 40.0 seconds). The southern boundary will be the shoreline between the barrier beach special DEM marker and Nope's Island special DEM marker.
- b. Eastern closed area: The harvest and possession of shellfish is prohibited, except for the harvest of bay scallops by dip-net from a boat during the open season for bay scallops, in the following area: Described as the waters east of a line running southerly from the special DEM marker located at N 41 degrees 21 minutes 1.1 seconds W 71 degrees 42 minutes 33.4 seconds, to a second special DEM marker located at N 41 degrees 20 minutes 41.0 seconds W 71 degrees 42 minutes 44.1 seconds; and bound by the eastern pond shoreline between the special DEM markers.

3. The harvest and possession of oysters in Quonochontaug Pond is prohibited until September 15, 2021.

O. Winnapaug Pond: Described as the waters of Winnapaug Pond in its entirety, in the town of Westerly.

1. Harvest schedule: Open daily.
 2. Closed Area: The harvest and possession of shellfish is prohibited, except for the harvest of bay scallops by dip-net from a boat during the open season for bay scallops, in the following area: Described as the waters north of a line running easterly from a special DEM marker at Big Rock Point (N 41 degrees 19 minutes 49.0 seconds, W 71 degrees 47 minutes 57.0 seconds), to the special DEM marker at the southern end of Larkin's Island (N 41 degrees 19 minutes 55.0 seconds, W 71 degrees 47 minutes 5.0 seconds). The area will be bordered on the east by a line running northwesterly the Larkin's Island special marker to a special DEM marker adjacent to the end of Bayside Avenue (N 41 degrees 19 minutes 58.0 seconds, W 71 degrees 47 minutes 9.0 seconds). The northern boundary is the shoreline between the Bayside Ave special DEM marker and the Big Rock Point special DEM marker.
- P. Green Hill Pond: Described as the marine waters of Green Hill Pond and its tributaries in its entirety, in the towns of South Kingstown and Charlestown.
1. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting from a boat during the open season for bay scallops.
- Q. Narrow River: Described as the marine waters of the Narrow River in its entirety, in the towns of Narragansett, South Kingstown, and North Kingstown.
1. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting from a boat during the open season for bay scallops.
- R. Little Narragansett Bay and Pawcatuck River: Described as the marine waters of Little Narragansett Bay and Pawcatuck River within the State of Rhode Island which are northeast of a line from the DEM range marker on a pole (Latitude 41.3217 ° N, Longitude 71.8787 ° W) near the southeastern extremity of Sandy Point to a DEM range marker on a pole (Latitude 41.3103 °, Longitude 71.8775 ° W) on the northern shoreline of Napatree Point, including all waters of the "Kitchen" so called, and those waters northeast of the southwest shoreline of Sandy Point to the state line. Harvesters should refer to the above latitudes and longitudes for the closure line if the range markers and or poles are no longer present.
1. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting from a boat during the open season for bay scallops.
- S. Providence and Seekonk Rivers: Described as the marine waters of the Providence River and Seekonk River and their tributaries located north of a line extending from the flagpole (Latitude: 41° 43' 2.93" North, Longitude: 71° 21' 27.68" West) located at Conimicut Point in the city of Warwick and the center of the Old Tower at Nayatt Point; and southerly and seaward of the Hurricane

barrier in the city of Providence; and southerly and seaward of the Main Street Dam in the city of Pawtucket.

1. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting from a boat during the open season for bay scallops.
- T. Warren River Shellfish Management Area: Described as the marine waters of the Warren River and its tributaries located north and east of a line extending from the flagpole at 178 Adams Point Road on Adams Point in Barrington to the DEM range marker at Jacobs Point; and southerly and downstream of the Main street/Route 114 bridge at its intersection with the Barrington River in the town of Barrington; and southerly and downstream of the Main street/Route 114 bridge at its intersection with the Palmer River in towns of Bristol and Warren.
1. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting from a boat during the open season for bay scallops.
- U. Town Pond: Described as the marine waters of Founders Brook and Town Pond in their entirety, in the town Portsmouth.
1. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting from a boat during the open season for bay scallops.
- V. Jacobs Point Shellfish Management Area: Described as the marine waters of the Warren River south of a line extending from the DEM range marker on the shore north of Jacobs Point, located at 71°17'12.104"W, 41°42'51.541"N, to nun buoy 12; and east of a line extending from nun buoy 12 to the DEM range marker on the shore south of Jacobs Point, located at 71°17'28.61"W, 41°42'36.91"N.
1. Harvest schedule: Open daily.
 2. The reduced Shellfish Management Area possession limit applies only to oysters. The commercial possession limit for oysters is one (1) peck per person per day.

4.13 Wet Storage of Shellfish

No person shall engage in wet storage of molluscan shellfish without first obtaining a dealer's license from DOH and DEM.

4.14 Commercial Handling of Shellfish

- A. Commercial shellfishermen shall conduct all activities and operations involving or relating to the possession and handling of shell stock so as to prevent contamination, deterioration and decomposition of such shell stock.
- B. Containers used for storing shell stock must be clean.

- C. Boat decks and storage bins used in the harvest or transport of shell stock shall be kept clean with potable water or water from the growing area in approved classification or the open status of conditional areas.
- D. Commercial shellfishermen using a vessel to harvest and transport shell stock shall assure that said vessel is properly constructed, operated and maintained to prevent contamination, deterioration and decomposition of shell stock.
- E. Commercial shellfishermen using a vessel to harvest and transport shell stock shall prevent bilge water from coming into contact with shell stock.
- F. Commercial shellfishermen using a boat to harvest and transport shell stock shall provide such vessel with effective drainage to avoid contact between bilge water and shell stock.
- G. Commercial shellfishermen using a vessel to harvest and transport shell stock shall locate bilge pumps so that discharge shall not contaminate shell stock.
- H. Shell stock shall be washed reasonably free of bottom sediments as soon after harvesting as possible. The harvester shall be primarily responsible for washing shell stock. If shell stock washing is not feasible at the time of harvest, the dealer shall assume this responsibility. Water used for washing shall be from a potable water source, or growing area in the approved classification or open status of the conditionally approved classification.
- I. The discharge of human sewage from a vessel used in the harvesting of shell stock, or from vessels that buy shell stock, within waters of the state is prohibited.

4.15 Commercial Tagging of Shellfish

- A. Commercial shellfishermen must place any and all shellfish taken by them (except those shellfish returned to the waters of the harvest area) into containers, and must tag each and every container with a "harvester tag" conforming to the requirements of this sub-section, prior to shellfish being placed in the container.
- B. The harvester tag shall be durable, waterproof, and sanctioned by the R.I. Department of Health. The tag shall contain the following indelible, legible information in the order specified as follows: The harvester's identification number as assigned by DEM; the date of harvest; the harvest commencement time; the harvest location as identified on the R.I. Shellfish Harvest Area Tagging Map; the shellfish management area; the type (species) of shellfish; and the approximate quantity of shellfish. The harvest commencement time will indicate the time that the first shellfish that the harvester is currently in possession of was removed from the water and should be the same for all shellfish that the harvester is in possession of regardless of tagging area.
- C. Each tag shall also carry the following statement in bold capitalized type: "This tag is required to be attached until container is empty or it retagged and

thereafter kept on file for 90 days". Commercial shellfishermen shall not place shell stock harvested from more than one growing area into the same container. When the harvester is also a dealer, the harvester has the option to tag the shell stock with a harvester tag or a dealer's tag meeting the requirements of the RIDOH regulations.

- D. Bulk tagging of shell stock will be permitted only with prior approval of the Director under the following criteria:
 - 1. When shell stock are harvested from one harvest area on a single day, multiple containers may be utilized on a wrapped pallet, in a tote, in a net brailer, or other container and the unit tagged with a single tag; and,
 - 2. A statement that all shell stock containers in this lot have the same harvest data and area of harvest; and number of containers in the unit.

4.16 Commercial Temperature Control of Shellfish

- A. Commercial shellfishermen shall not allow shell stock to deteriorate or decompose from exposure to excessive temperature and shall deliver shell stock to a licensed dealer before such deterioration or decomposition occurs.
- B. Harvest of shellfish from sunrise November 1 through sunset March 31 annually: The maximum allowable time between the commencement of harvest of shell stock and delivery to a dealer shall be twenty hours. Possession of shell stock in excess of 20 hours is prohibited.
- C. Harvest of shellfish from sunrise April 1 through sunset October 31 annually: The maximum allowable time between the commencement of harvest of shell stock and delivery to a dealer shall be 10 hours. Possession of shell stock in excess of 10 hours is prohibited.
 - 1. The harvester shall provide shading to all shellfish intended for harvest aboard vessels and during land-based deliveries.
 - 2. Harvest of quahogs or oysters from within Designated Temperature Control Areas that exceed five hours to complete shall be placed in mechanical refrigeration or adequately iced in a storage container within five (5) hours of the commencement of harvest until the shellfish are transferred to a licensed dealer within 10 hours.
- D. Ocean quahaugs, surf clams, and ~~whelks~~ conchs are exempt from temperature control requirements.

4.17 Shellfish Transplant Regulations

- A. The Director is authorized and directed, after requiring all necessary safeguards, to transfer shellfish from uncertified waters of the State to approved areas. The

Director may make Rules and Regulations governing the re-harvest of those shellfish to the best economic benefit of the state after all necessary safeguards to insure their cleanliness (R.I. Gen. Laws § 20-6-26).

- B. Any person participating in the transplant program shall surrender his commercial license to the conservation officer or ~~DFW~~ DEM employee afloat on the transplant bed or otherwise stationed to collect licenses. The license must be surrendered before the participant commences digging shellfish.
- C. The boundaries of the transplanting area shall be marked with designated corner markers. All shellfishermen participating in the transplant program shall harvest shellfish only within the boundaries of the transplant area so marked.
- D. No shellfisherman shall commence harvesting shellfish in the transplant area before the hour at which the transplant program is scheduled to commence. Hours of transplanting shall be publicized in advance.
- E. Shellfishermen participating in the transplant program shall bring no shellfish into the transplant area before beginning the transplant. Any shellfish on board a participant's boat shall be considered transplant shellfish, dug from the transplanting area.
- F. Any participant in the transplant program shall be considered to have completed his participation in the program when he presents his shellfish to the "buy boat/buy station" for counting/weighing. If the method of transplanting involves diggers planting their own catch in the transplant bed, the shellfisherman shall first present his catch to the authorized DEM officer for counting/weighing, and shall then proceed directly to the planting area. Once the shellfisherman commences to remove the shellfish from his boat to the "buy boat/buy station" or into the transplant bed, he shall remove all shellfish from his boat before changing location. Any change of location shall indicate that the shellfisherman has cleared his boat of shellfish and is ready for inspection and return of license by DEM officers. No shellfish shall be aboard any participant's boat at the time of inspection.
- G. Temporary creation of a transplanting area shall in no way affect the polluted status of the waters therein, or of any waters surrounding the transplanting area and declared polluted.
- H. Violation of any of these provisions shall be punishable by a fine of up to \$500 and/or up to 30 days in jail.
- I. Agents of the DEM may limit the maximum allowable harvest by each participant in a transplant. Agents of the DEM may limit the number of participants in a shellfish transplant program provided that the limit is determined in a fair and equitable manner (R.I. Gen. Laws § 20-6-29).

- J. Dredging, Raking, and Tonging in Transplant Beds: Those areas to which the shellfish are transferred shall be marked out, and dredging, raking, or tonging on them shall be prohibited except under the special direction of the Director (R.I. Gen. Laws § 20-6-27).

HEARING ITEM 17. – Whelk pot tagging program (proposed new section 4.18)

4.18 Commercial Whelk Pot Tagging:

- A. No person shall set, haul, or maintain any whelk pot without the pot having a valid whelk pot tag.**
- B. Whelk pot tags shall be issued by the Director. Application for whelk pot tags shall be made on forms as prescribed by the Director.**
- C. Cost of tags shall be borne by the license holder and should not substantially exceed the cost of producing such tags by the vendor(s) selected by the department.**
- D. Tags shall be permanently attached to the pot in a location clearly visible for inspection.**
- E. Tags shall be valid from March 1 through the last day in February annually.**
- F. No person shall transfer whelk pot tags between whelk pots, or between individuals or vessels.**
- G. No person shall possess at any one time more whelk pot tags than are authorized.**
- H. Pot limit:**
- 1. The maximum number of whelk pots that may be set, hauled, or maintained by any licensed person is three hundred (300) pots.**
 - 2. The maximum number of licensed persons that may set, haul, or maintain whelk pots from a commercial fishing vessel is two (2) persons.**
 - 3. The licensed person(s) must be onboard the vessel while setting, hauling, or maintaining whelk pots.**
- I. Maximum tag order: Maximum of three hundred (300) whelk pots per licensee in the water at any one time. The maximum number pot tags that may be ordered is three hundred (300), plus an additional 10% (for a**

maximum of 330 tags that may be ordered) to allow for replacement due to routine pot losses.

J. The purchase of commercial whelk pot tags shall exclude the licensed person from participation in the recreational whelk pot fishery.

Public Hearing
February 11, 2019

Proposed/annotated amendments

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

250-RICR-90-00-5

TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 90 – MARINE FISHERIES

SUBCHAPTER 00 – N/A

PART 5 – Lobsters, Crabs and Other Crustaceans

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5.1 Purpose

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

5.2 Authority

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

5.3 Application

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

5.4 Definitions

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

5.5 Severability

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

5.6 Superseded Rules and Regulations

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

5.7 General Pot Provisions

- A. No person except the Director shall place, set, keep, maintain, sell, transfer, or have in his or her possession any pot, trap, car, or any other device used in taking or holding lobster or crabs, nor take, remove, or carry away from the beach or shore any pot, trap, car, or other device or line (warp) or buoy without the written permission of the owner (R.I. Gen. Laws § 20-7-12.1).
- B. Raising lobster pots at night: No person shall raise or unduly disturb any lobster pot or trap within the territorial waters of this State between the hours of one (1) hour after sundown and one (1) hour before sunrise. (R.I. Gen. Laws § 20-7-13).
- C. Removal of branded numbers from lobster pots: No person shall set, maintain, or have in his or her possession any lobster pots from which the branded numbers have been altered, obliterated, or removed, with the intent to defraud or deprive the owner (R.I. Gen. Laws § 20-7-12).
- D. Buoys: Each pot used for the taking of lobsters or crabs shall bear a color scheme on the attached buoy consistent with the color stated on the license. In cases where natural conditions render it impractical to separately buoy each pot, the Director may grant permission to buoy such pots in an alternative manner (R.I. Gen. Laws § 20-7-11).
 - 1. Color scheme: The buoy color scheme shall be displayed on any lobster boat used by the licensee such that those colors shall be painted on port and starboard sides of the hull in a section not less than one foot (1') square. Or a clearly painted buoy shall be set at the highest point on the boat excluding the mast and be visible for 360°. The buoy or colors must be prominently displayed on the vessel at all times that lobster gear fished under that license is in the water (R.I. Gen. Laws § 20-7-11.1(a)).
 - 2. No person shall place, set, lift, raise, unduly disturb, draw in, or transfer any pot used for the taking of lobsters unless the color scheme of the attached buoy is the same as the color scheme that is on file with the license application and displayed on the boat used by that person, or unless that person is duly licensed and possesses written permission from the rightful owner of the pot, trap, or other device (R.I. Gen. Laws § 20-7-11.1(b)).

5.8 Lobster

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

- A. Minimum size: Three and three-eighths (3-3/8) inches (85.73 mm) carapace length.

- B. Maximum size: Five and one-quarter (5-1/4) inches (133.35 mm) carapace length.
- C. Egg-bearing female lobsters: No person shall have in his or her possession at any time any female lobster bearing eggs or from which the eggs have been brushed or removed (R.I. Gen. Laws § 20-7-10).
- D. Mandatory v-notching: Any person or vessel permitted or declared to fish in LCMA 2 shall v-notch all legal-sized egg bearing female lobsters.
- E. Prohibition on possession of v-notched female American lobsters: Any v-notched lobster shall be immediately returned to the water from which taken. No person shall retain on board, land, or possess any v-notched female American lobster.
- F. Penetrating devices: No person shall use a spear, gig, gaff, or other such penetrating device to harvest lobsters.
- G. Possession of lobster meat: No fishing vessel operating in Rhode Island territorial waters shall have on board at any time more than one (1) pound of cooked or uncooked lobster meat for each person on board that vessel (R.I. Gen. Laws § 20-7-14).
- H. Mutilation of uncooked lobster meat: No person shall mutilate any uncooked lobster by severing its tail from its body or have in his or her possession any part or parts of any uncooked lobster so mutilated (R.I. Gen. Laws § 20-7-14).
- I. Lobster pots:
 - 1. Maximum size: 22,950 cubic inches.
 - 2. Escape vents: Each and every lobster pot, set, kept, or maintained or caused to be set, kept, or maintained in any of the waters in the jurisdiction of this State by any person properly licensed, shall contain an escape vent in accordance with the following specifications: (R.I. Gen. Laws § 20-7-11(a)).
 - a. At least one (1) rectangular escape vent with an un-obstructed opening measuring not less than two inches by five and three-quarters (2 X 5¾) inches (50.8mm X 146mm); or two (2) circular escape vents, each with an un-obstructed opening measuring not less than two and five eighths (2-5/8) inches (66.68mm) in diameter; or,
 - b. An unobstructed gap caused by raising both ends of a bottom lath in the parlor section 2 inches (50.8mm) from the bottom; or,
 - c. An unobstructed gap caused by separating both ends of 2 vertical laths on the end of the parlor section by 2 inches (50.8mm); or,

- d. An unobstructed gap created by cutting wires in a wire trap in such a manner as to meet the minimum size and number of vents required in accordance with this section.
- e. The vent or gap shall be installed or made in each parlor section on the sides or end panel. Traps equipped with multiple parlor sections and having a central entrance funnel(s) separating the parlor sections must adhere to the escape vent requirements specified above in each parlor section. Traps equipped with multiple parlor sections that are linked in series ("in-line") must adhere to the escape vent requirements specified in the terminal, or end parlor section.
- f. Lobster traps not constructed entirely of wood must contain a ghost panel with the following specifications:
 - (1) The opening to be covered by the ghost panel must be rectangular and shall not be less than 3-3/4 inches (9.53 cm) by 3-3/4 inches (9.53 cm).
 - (2) The panel must be constructed of, or fastened to the trap with one of the following untreated materials: wood lath, cotton, hemp, sisal, or jute twine not greater than 3/16 inch (0.48 cm) in diameter, or non-stainless, uncoated ferrous metal not greater than 3/32 inch (0.24 cm) in diameter.
 - (3) The door of the trap may serve as the ghost panel if fastened with a material specified in previous paragraph.
 - (4) The ghost panel must be located in the outer parlor(s) of the trap and not the bottom of the trap.

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

- 1. A non-commercial lobster pot or diver license is available to RI residents only. A non-commercial lobster licensee shall not offer for sale or sell lobsters (R.I. Gen. Laws §§ 20-2-24 and 20-7-3).
 - a. Non-commercial lobster pots:
 - (1) A holder of a non-commercial lobster pot license may set, place, or maintain in the water not more than five (5) lobster pots at any one (1) time (R.I. Gen. Laws § 20-7-3).
 - (2) Trap tags: A lobster trap tag issued by the Director is required to be attached to each pot deployed. Tags shall be permanently attached to the trap bridge or central cross member of the trap and be clearly visible for inspection. A

one (1) tag over-allotment will be issued for a routine loss. Tags shall be valid for the calendar year in which the license is issued.

- b. Diver lobster license: A holder of a non-commercial lobster diver license shall take no more than eight (8) lobsters in any one (1) day. No diver shall use a spear, gig, gaff, or other penetrating device to harvest lobsters or while diving to set, open or tend lobster pots (R.I. Gen. Laws § 20-7-4).
- K. Taking of lobsters by commercial fishing vessels: No operator of a Rhode Island registered vessel engaged in trawling for finfish in Rhode Island territorial waters may retain and sell any lobsters taken unless properly licensed by the Department (R.I. Gen. Laws § 20-7-2).
1. Licensing of owner-operated vessels: No vessel may be used in the commercial taking of lobsters unless the operator is the registered or documented owner of said vessel. If a corporation is the documented owner of a vessel, the operator shall be the majority owner of that corporation. This regulation shall in no way abridge a licensee's right pursuant to R.I. Gen. Laws § 20-7-6.
 2. Use of commercial license by agent or employee: If a commercial lobster licensee becomes incapacitated for any reason from using that license, that person may permit his or her agent or employee to perform those duties under the license. Prior authorization from the Director is required for the use of a commercial license by an agent or employee due to incapacitation, (R.I. Gen. Laws § 20-7-6). Criteria for use of license:
 - a. The applicant must provide application on forms prescribed by the Director;
 - b. The agent or employee must be a citizen of the United States;
 - c. The application must include a written statement signed by a duly-licensed physician stating that the applicant/licensee is incapacitated and unable to participate in the lobster fishery, the reason for that incapacity, and the anticipated duration of such incapacity. For the purpose of this section, the term incapacity shall be defined as the inability, due to medical reasons, to place, set, keep, maintain, supervise, lift, raise, or draw in any pot or other contrivance designed or adapted for the catching of lobsters. The Director may grant permission to the incapacitated applicant/licensee, for a period not to exceed ninety (90) days, to transfer his/her duties under such license to a designated agent or employee. This permission may be continued for an additional ninety (90) days upon submission to the Director of a duly-licensed

physician's statement documenting such need. Further extensions may be granted at the discretion of the Director, but in no case may the period of transfer of duties exceed a total of one year.

- d. Upon Director authorization for use of a license by an agent or employee, the authority of the licensee to sell or commercially harvest lobsters under such license shall be transferred in its entirety to the designated agent or employee. The agent or employee must carry the license of the incapacitated licensee and the written authorization by the Director on his/her person at all times while engaged in any portion of the lobster fishery.
 - e. By making application for the transfer of duties to an agent or employee, the applicant/licensee accepts responsibility for the actions of the transferee under the authority of said license.
3. Commercial possession limit of lobsters taken by gillnet or otter trawl: Maximum of one hundred (100) lobsters per day (based on a 24-hour period), or five hundred (500) lobsters per trip for trips five (5) days or longer.

L. Lobster trap allocation (LTA):

- 1. No person may take or possess lobster commercially in LCMA 2 unless taken by a lobster trap authorized pursuant to a lobster trap allocation (LTA) issued by the Department, or as bycatch by an otter trawl or gillnet.
- 2. No person may deploy more lobster traps than the number allocated per their LTA.
- 3. The Director is the LTA authority in LCMA 2 for all Rhode Island residents, both state-licensed and federally permitted.
- 4. No holder of any LTA may lease his/her allocation, or any portion thereof.
- 5. Issuance of initial LCMA 2 LTA:
 - a. The Department shall determine LCMA 2 LTAs for all eligible applicants.
 - b. For resident applicants who are dual state-license/federal-permit holders, the Department shall forward all proposed LCMA 2 LTAs, and the basis for each such determination, to NOAA Fisheries for that agency's consideration, prior to final issuance.
 - c. The Department and NOAA Fisheries shall seek to ensure that dual state-license/federal permit holders do not receive duplicate LCMA

2 LTAs from different jurisdictions for the same fishery performance.

- d. If there is a discrepancy between Department and NOAA Fisheries proposed LCMA 2 LTAs for a dual state-license/federal permit holder, then the license/permit holder is bound by the lesser of the LCMA 2 LTAs until a final, joint determination is rendered by the agencies.
 - e. Initial LCMA 2 LTAs will only be issued to qualified applicants in accordance with these regulations.
 - f. Adjustments to initial LCMA 2 LTAs, and issuances of new LCMA 2 LTAs, may occur, by rule, if associated with Department-sanctioned transfers, or if warranted or required by changes in LCMA 2 lobster stock assessments or other ASMFC actions.
6. Qualifications for initial LCMA 2 LTAs:
- a. To be eligible for an initial LCMA 2 LTA, an applicant must meet the following:
 - (1) Applied to the Department by February 1, 2007.
 - (2) Held a Department-issued commercial fishing license, authorizing the individual to fish commercially for lobster, or a federal lobster permit endorsed for LCMA 2, at some point during the period 2001-2003; and,
 - (3) Documented fishing performance during the period 2001-2003 (i.e., must have landed lobsters with traps from LCMA 2 at some point during that period); or if unable to do so due to material incapacitation, must have documented fishing performance during the period 1999-2000 and during the year 2004 (i.e., must have landed lobsters with traps from LCMA 2, with a valid license/permit, at some point during those periods); and,
 - (4) Renewed his/her license/permit annually since 2003.
 - b. Alternatively, an applicant is eligible for an initial LCMA 2 LTA if he/she has:
 - (1) Lawfully acquired a federal lobster permit that comports with the above-specified qualifications; or,

- (2) Acquired the vessel and gear of a RI license holder who meets the above-specified qualifications, and has been issued a new license with a lobster endorsement.
- c. Documented fishing performance shall be based upon a license/permit holder's logbook reports and/or federal VTRs pertaining to the applicable qualifying period. In accordance with these regulations, the Department will consider other information, offered by the applicant, but only if it pertains to documentation already furnished to a state or federal government agency.
- d. LTAs assigned to a dual federal permit/state license holder cannot be treated as separate fishing histories and stacked for the purposes of initial trap qualification and allocation. A single fishing entity is considered to have established a single lobster fishing history even if that person is a dual federal permit/state license holder.
- e. Material Incapacitation: An individual who meets the qualifying criteria, but had no documented, or had reduced, fishing performance during the three-year period 2001-2003, inclusive, due to material incapacitation, may request that his/her initial LCMA 2 LTA be based on his/her fishing performance in LCMA 2 during the period 1999-2000. The Department will review all documentation submitted by applicants seeking consideration under this section, and shall render a decision, in writing, regarding each applicant's eligibility pursuant to this section. On the basis of that decision, the Department shall notify each applicant, in writing, regarding the applicant's initial LCMA 2 LTA, noting the values used in making the determination, or the reason(s) why the application was denied. In order to establish material incapacitation on the basis of a medical condition, an applicant must present the following notarized documentation, which may pertain to the applicant or to the applicant's family member:
 - (1) Evidence that the applicant or family member had a physical or mental impairment during the period 2001-2003, inclusive, involving inpatient care in a hospital, a nursing home, or a hospice, or outpatient care requiring continuing treatment or supervision by a health care provider; and/or,
 - (2) Evidence that the applicant or family member received, during the period 2001-2003, inclusive, social security disability benefits (SSDI), and/or supplemental security income benefits (SSI), and/or 100 percent disabled benefits from the U.S. Department of Veteran Affairs; and,

- (3) If the material incapacitation involves a family member, evidence that the applicant had a direct role in the care of the family member.
- (4) In order to establish material incapacitation on the basis of military service, an applicant must present appropriate documentation (namely, Form DD214) establishing that he/she served for one hundred eighty (180) or more days during the years 2001-2003, either on active duty in the U.S. Army, Navy, Air Force, Marines, or Coast Guard, or as a member of a national guard or reserve component of the same, activated by order of an appropriate state or federal authority.
- (5) Applicants seeking consideration under this section may be required to submit additional information, as deemed necessary by the Department, in order to establish eligibility pursuant to this section.

7. Application for initial LCMA 2 LTA:

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

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

- a. "Predicted Traps Fished" values shall be calculated for 2001, 2002, and 2003 from the applicant's total lobster landings in each of those years using the established regression relationship for LCMA 2.
- b. "Reported Traps Fished" values, constituting the maximum number of lobster traps reported fished in LCMA 2 for 2001, 2002, and 2003, shall be obtained from the applicant's logbook reports and/or federal Vessel Trip Reports (VTRs).

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

recipient submitted inaccurate data/information/documentation relating to the determination of his/her LCMA 2 LTA.

- e. The Department may temporarily or permanently revoke any LCMA 2 LTA if the applicant or recipient is found to have submitted fraudulent data/information/ documentation relating to the determination of his/her LCMA 2 LTA.
- f. Any actions or decisions made by the Department pursuant to this section shall be issued in writing.

10. Disputes and appeals:

- a. Upon the issuance of a written decision by the Department regarding an initial, corrected, or revoked LCMA 2 LTA, an applicant may appeal the decision by submitting a written request for an adjudicatory hearing with the clerk of the RIDEM Administrative Adjudication Division, One Capitol Hill, Fourth Floor, Providence, RI 02908. Such a request must be submitted within thirty (30) calendar days of receipt of the Department's written decision.
- b. During the time period from which an appeal has been filed, and until a final determination has been rendered by the AAD, the appellant shall be restricted to fishing his/her initial or corrected LCMA 2 LTA, as set forth by the Department.

M. LTA transfers:

1. Eligibility:

- a. LTA transferors: Any state-licensed, federally-permitted, or dually federally-permitted/state-licensed holder of a Department or NOAA Fisheries-issued LTA is eligible to transfer some or all of his/her LTA, subject to the terms and conditions set forth below.
- b. LTA transferees: Any RI resident is eligible to obtain one or more transfers of Department issued LTAs, subject to the terms and conditions set forth below. Any RI resident or non-resident is eligible to obtain one or more transfers of NOAA Fisheries-issued LTAs, subject to the terms and conditions set forth below.
- c. All holders of LTAs assigned to a RI state commercial fishing license only (i.e. no federal permit) must annually renew their RI state commercial fishing license, or that portion of their RI state commercial fishing license that authorizes them to commercially harvest lobsters from RI state waters with lobster traps, in order to remain eligible to transfer any portion of their LTA.

2. LTA transfer application:
 - a. All transfers of LTAs must be authorized by the Director.
 - b. Applications for LTA transfers shall be made on forms prescribed by the Director. All applications must be signed by both the transferor and transferee, and notarized.
 - c. Applications for transfers may be submitted from June 1 through November 30 for the following fishing year.
 - d. Transfers shall become effective the year following the approval of the application.
 - e. The LTA transferor and transferee are not bound by any rules or regulations of the Department relating to any payment or compensation between LTA transferor and transferee associated with any LTA transfer. Holders of LCMA 2 LTAs assigned to RI State waters may sell, give, or otherwise convey some or all of their allocation without limitation, provided that they comply with all terms and conditions set forth herein.

3. Types of allowable transfers:
 - a. Partial or full LTA transfers without sale of business: An LTA transferor may transfer a portion or all of his/her Department- or NOAA Fisheries-issued LTA. In any such case, the LTA transferor may retain his/her license/permit and fishing business.
 - b. Full LTA transfer with sale of business: Pursuant to RIMFR "Commercial and Recreational Saltwater Fishing Licensing Regulations", a licensed fisherman who has been actively fishing his license/permit and wishes to sell his vessel and gear and retire his license may do so, and in so doing, enable the buyer (transferee) to acquire a new, corresponding license and endorsement. In any such situation, the transaction must include the transfer of all of the seller's (transferor's) Department- or NOAA Fisheries-issued LTA, along with any and all history associated with the license/permit.
 - c. Partial and full business transfers of multi-LCMA LTA: Recipients of either a partial LTA transfer or full LTA transfer with sale of business from a federal permit that has a multi-LCMA LTA shall retain the multi-LCMA history and may fish in any of the LCMAs that the LTA allows and would be bound by the most restrictive rule when declaring to be fishing in multiple LCMAs.

4. LTAs assigned to a dual federal permit/state license holder cannot be divided and apportioned between the permit/license. A dual federal permit/state license holder's LTA will be considered indivisible. If a dual federal permit/state license holder "splits" his/her permits/license by transferring either the federal permit or state license to another entity, then the entire fishing history, including any LTA is to remain with the federal permit.
5. A dual federal permit/state license holder who permanently relinquishes or surrenders his/her federal limited access lobster permit can allow his/her LTA to be transferred to his/her state license.
6. Transfers of any LTA must remain within the LCMA from which they originate. An LTA from one LCMA is only valid in the LCMA from which it originally qualified and cannot be transferred to another LCMA.
7. The LTA of the seller (LTA transferor) shall be reduced in all LCMA's in which the seller has been assigned a LTA by the amount of LTA that is transferred, prior to application of the 10% conservation tax.
8. Partial transfers of LTA assigned to LCMA 2, whether state-licensed, federally-permitted, or dually federally-permitted/state-licensed, shall involve a minimum of ten (10) LTA units (i.e. lobster traps), and occur in minimum units of ten (10) LTA units thereafter, until the remaining LTA is less than ten (10) lobster traps.
9. If a LTA assigned to LCMA 2 falls below ten (10) lobster traps, and the holder wishes to transfer his/her allocation, the entire allocation must be transferred in a single transaction, and the lobster trap allocation transferor shall be prohibited from participation in the LCMA 2 commercial lobster trap fishery until such time as said license holder re-acquires LTA assigned to LCMA 2.
10. All transfers of LCMA 2 LTAs, including all partial and full trap allocation transfers and all transfers associated with the sale of business, shall be subject to a ten percent (10%) conservation tax. The tax shall be applied to each and every transfer, including all initial transfers and any/all subsequent transfers. Transfers of less than ten (10) lobster traps shall not be subject to the 10% conservation tax.
11. An LCMA 2 LTA transferee may engage in any number of transfers, provided that the total number of traps held at any one time does not exceed eight hundred (800).
12. Any LTA transferee who obtains a LCMA 2 LTA assigned to a RI state commercial fishing license only (i.e. no federal permit) must currently have a Principle Effort License with a lobster endorsement or a state

multipurpose endorsement, which shall be necessary in order to commercially harvest lobsters from RI state waters with lobster traps.

N. Single Ownership Trap Cap or Individual Permit Cap for LCMA 2:

1. Single ownership cap allows the purchase and accumulation of traps over and above the active trap cap (currently 800 traps for LCMA 2). The single ownership cap is 1600 traps for an individual or corporation at a given time. Traps in excess of the active trap cap may not be fished until activated by the permitting state or agency. A transfer tax will not be assessed on traps activated from the permit holder's individual permit cap (Trap Bank) to an active trap. Newly purchased traps, along with traps already owned by a permit holder may combine to equal the number of traps necessary to go through active reductions, in order to end up at the final trap level of 800 traps.
2. Sunset Provision for the Single Ownership Cap: The single ownership cap allows the purchase and accumulation of traps over and above the active trap cap (currently 800 traps for LCMA 2). This is to allow for businesses that are cut in the upcoming annual trap reductions to efficiently rebuild their business. The single ownership cap will expire two (2) years after the last trap reduction as specified in Addendum XVIII. At that time, LCMA 2 will revert back to the historical 800 active trap cap allocation only.

O. Aggregate Ownership Cap or Owner Accumulation Limits for LCMA 2: Under this addendum, an entity may not own more than 1600 traps (800 active and 800 banked traps). However, those individuals who had more than two (2) permits in December 2003 may retain the number they had at that time, but may not own or share ownership of any additional permits.

P. License and LTA Tracking: The Department shall maintain records to track all Department or NOAA Fisheries issued LTAs and LTA transfers for resident state license holders and resident federal permit holders.

Q. LTA reduction for LCMA 2:

1. Initial LTA reduction: Effective Year 1 of LTA reduction schedule, each and every LCMA 2 LTA shall be reduced by twenty-five percent (25%) from the original LCMA 2 LTA determination and be permanently retired from the LCMA 2 lobster trap fishery for conservation purposes. For state-only license holders, LTA reductions are from the original LCMA 2 LTA determinations and any LCMA 2 LTA obtained subsequent to the initial LCMA 2 LTA determination. For federal permit or dual state license/federal permit holders, LTA reductions are from the LTA accepted by the federal permit or dual state license/federal permit holders after NOAA Fisheries completes their LTA process. Additionally, any other LTA

from any other LCMA that was obtained by the federal permit or dual state license/federal permit holder subsequent to the initial LTA determination is also subject to this twenty-five percent (25%) LTA reduction.

2. Annual LTA reduction schedule: Effective beginning Year 2 of LTA reduction schedule and on June 1st in each of the next four (4) consecutive years, each and every LCMA 2 LTA shall be reduced by five percent (5%) from the preceding year's LCMA 2 LTA. The annual LTA reductions shall be assessed to both active and banked LCMA 2 LTA's, with the annual LTA reductions being permanently retired from the LCMA 2 lobster trap fishery for conservation purposes.

LCMA 2 – LTA Reduction Schedule:

Year	% Reduction
Year 1	25%
Year 2	5%
Year 3	5%
Year 4	5%
Year 5	5%
Year 6	5%

R. Commercial lobster trap tags:

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

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

HEARING ITEM 18. – Division proposal to replace original lobster trap tags ordered but not initially received with catastrophic tags in the event tags were not received and are presumed lost (section 5.8.1(R)(11)(c).)

- c. Catastrophic loss trap tags: Commercial licensees may order up to two (2) complete sets of catastrophic **loss** trap tags, in an amount equal to the number of original tags ordered, to be used in the event of catastrophic loss **or to replace original trap tags not received.**
- (1) Catastrophic loss trap tags shall be held by the Director.
 - (2) When a catastrophic loss occurs, a complete duplicate set of ordered catastrophic trap tags shall be issued. Original trap tags will become null and void upon issuance of catastrophic loss trap tags.
 - (3) Catastrophic loss trap tags shall be distinguishable from original trap tags (i.e. color).
 - (4) Application for catastrophic loss trap tags shall be made on forms prescribed by the Director and signed by the commercial licensee under penalty of perjury. The **DFW Department** shall review the application for catastrophic loss tags form within 1 week after receipt.
 - (5) In state waters, catastrophic loss trap tags must be placed in traps within ten (10) days after issuance.
 - (6) **The DFW Department** shall report the issuance of catastrophic loss trap tags and the voiding of original trap tags to the DLE.
 - (7) The DLE must be notified, in writing by certified mail, in cases of extenuating circumstances that do not permit catastrophic loss trap tags to be attached to traps.
 - (8) Catastrophic trap tag loss shall be reported immediately to the DLE. Recovery of original lobster trap tags that have been reported as catastrophic loss shall be reported immediately to the DLE.
 - (9) In the event that catastrophic loss trap tags are not immediately available, the Director may ~~issue an exemption letter to allow~~ **authorize the use of** ~~the commercial licensee~~

~~to fish~~ new traps until catastrophic loss trap tags are received by said licensee.

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

owner permitted to fish in the federal exclusive economic zone (EEZ) must comply with the most restrictive management measures of the LCMA's declared, except in regard to trap caps and trap allocations. For trap caps and trap allocations, the most restrictive rule will be applied on an LCMA trap cap/trap allocation basis without regard to the individual's or vessel's trap cap or trap allocation.

S. Land-based lobster processing permit:

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

5.8.2 LCMA 1 (Inshore Gulf of Maine):

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

or two (2) circular escape vents, each measuring not less than two and one half (2½) inches (63.5mm) diameter.

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

5.8.3 LCMA 3 (Offshore Waters):

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

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

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

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

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

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

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

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

M. LCMA 3 LTA transfers:

1. Transfers of LTA assigned to LCMA 3 may only be made to individuals/entities with a federal lobster permit.

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

6. Active Trap Cap for LCMA 3:

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

This schedule assumes that NOAA Fisheries will implement a 2,000 trap cap with the next set of federal rules and phase in a 25% trap cut during the next five years.

7. Single Ownership Cap or Individual Permit Cap for LCMA 3: The Single Ownership Cap allows for the purchase and accumulation of traps over and above the Active Trap Cap limit. This will allow a permit holder to obtain trap allocation from other permit holder in excess of the individual

trap cap limit. This additional allocation may not be fished until activated by the permit holder's governing agency.

8. Individual Permit Cap Table for LCMA 3:

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

This schedule assumes that NOAA Fisheries will implement a 2,000 trap cap with the next set of federal rules and phase in a 25% trap cut during the next five years.

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

Ye	Activ Cap	Individual Per mit Cap	Aggregate Permit Cap (5x Individual Permit Cap)
Ye	2,00	2,333	11,665

Ye	1,90	2,216	11,080
Ye	1,80	2,105	10,525
Ye	1,71	2,000	10,000
Ye	1,62	1,900	9,500
Ye	1,54	1,800	9,000

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

LCMA 3 – LTA Reduction Schedule:

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

Year 4	5%
Year 5	5%

5.8.4 LCMA 4 (Inshore Northern Mid-Atlantic):

- A. Minimum size: Three and three eighths (3-3/8) inch (85.72 mm) carapace length.
- B. Maximum size: Five and ¼ (5 ¼) inch (133.35 mm) carapace length.
- C. Minimum escape vent size: In each parlor section of the lobster trap, at least one (1) rectangular escape vent with an un-obstructed opening measuring not less than two inches by five and three-quarters (2 X 5¾) inches (50.8mm X 146.05mm), or two (2) circular escape vents, each with an un-obstructed opening measuring not less than two and five eighths (2 5/8) inches (66.68 mm) diameter.
- D. Maximum trap size: 22,950 cubic inches.
- E. Prohibition on possession of v-notched female American lobsters: No person, including, but not limited to fishermen, dealers, shippers, and restaurants, shall retain on board, land, or possess any v-notched female American lobster.
- F. Mandatory v-notching: Any person or vessel permitted or declared to fish in LCMA 4 shall v-notch all legal-sized egg bearing female lobsters and return them to the water immediately.
- G. Limits on landings by fishermen using gear or methods other than traps: Landings by fishermen using gear or methods other than traps (non-trap fishermen) will be limited to no more than one hundred (100) lobsters per day (based on a 24-hour period) up to a maximum of five hundred (500) lobsters per trip, for trips five (5) days or longer.
- H. Limits on the Number of Traps:
 - 1. Qualification Criteria: The trap limit in LCMA 4 shall be based on the historical level of traps fished by an individual. To qualify for LCMA 4 participation, individuals must prove participation in the LCMA 4 lobster fishery between March 25, 1991 and September 15, 1998.
 - 2. Basis for Initial Trap Limit Number: Initial trap allocations to qualifying individuals shall be based on the number of traps fished in any one calendar year during the period from January 1, 1994 through September 15, 1998. Individuals that did not lobster trap fish in LCMA 4 during the period from January 1, 1994 through September 15, 1998, but did fish between 1991 and 1993, inclusive, must pick the most recent year in which they actively fished lobster traps in LCMA 4, such year not to pre-

date the March 25, 1991 control date. Individuals shall be allocated the total number of traps fished.

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

a. Fire Island:

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

b. Moriches:

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

c. Shinnecock:

Point	Latitude(°N)	Longitude(°W)	Loran
A (NW)	40° 34.389	72° 27.420	14960 / 43670
B (NE)	40° 35.904	72° 16.223	14890 / 43670
C (SE)	40° 27.997	72° 13.117	LCMA 3 boundary; 14890 line
D (SW)	40° 23.105	72° 23.782	LCMA 3 boundary; 14960 line

d. Montauk:

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

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

5.8.5 LCMA 5 (Inshore Southern Mid-Atlantic):

- A. Minimum size: Three and three eighths (3-3/8) (85.72mm) inch carapace length.
- B. Maximum size: Five and one quarter (5¼) inch (133.35 mm) carapace length.
- C. Minimum escape vent size: In each parlor section of the lobster trap, at least one (1) rectangular escape vent with an un-obstructed opening measuring not less than two (2) inches by five and three-quarters (5¾) inches (50.8mm X 146.05mm), or two (2) circular escape vents, each with an un-obstructed opening measuring not less than two and one half (2½) inches (63.5mm) diameter.
- D. Maximum trap size: 22,950 cubic inches.
- E. Prohibition on possession of v-notched female American lobsters: No person, including, but not limited to fishermen, dealers, shippers, and restaurants, shall retain on board, land, or possess any v-notched female American lobster.
- F. Mandatory v-notching: Any person or vessel permitted or declared to fish in LCMA 5 shall v-notch all legal-sized egg bearing female lobsters and return them to the water immediately.
- G. Limits on Landings by fishermen using gear or methods other than traps: Landings by fishermen using gear or methods other than traps (non-trap fishermen) will be limited to no more than one hundred (100) lobsters per day (based on a 24-hour period) up to a maximum of five hundred (500) lobsters per trip, for trips five (5) days or longer.
- H. Limits on the Number of Traps:
 - 1. Qualification Criteria: The trap limit in LCMA 5 shall be based on the historical level of traps fished by an individual. To qualify for LCMA 5

participation, individuals must prove participation in the LCMA 5 lobster fishery between March 25, 1991 and September 15, 1998.

2. Basis for Initial Trap Limit Number: Initial trap allocations to qualifying individuals shall be based on the number of traps fished in any one calendar year during the period from January 1, 1994 through September 15, 1998. Individuals that did not lobster trap fish in LCMA 5 during the period from January 1, 1994 through September 15, 1998, but did fish between 1991 and 1993, inclusive, must pick the most recent year in which they actively fished lobster traps in LCMA 5, such year not to pre-date the March 25, 1991 control date. Individuals shall be allocated the total number of traps fished.
 - I. Season closure: A season closure to the landing of lobsters from February 1 through March 31 annually is required for any person or vessel permitted and declared to fish in LCMA 5. During this closure, lobster potters will have a two week period to remove lobster pots from the water, and may set lobster pots one week prior to the end of the closed season.

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

- A. Minimum size: Three and five sixteenths (3-5/16) inch carapace length.
- B. Maximum size: Five and one quarter (5-1/4) inch (133.35mm) carapace length.
- C. Minimum escape vent size: In each parlor section of the lobster trap, at least one (1) rectangular escape vent with an un-obstructed opening measuring not less than or two (2) inches by five and three-quarters (2 X 5¾) inches (50.8mm X 146.05mm), or two (2) circular escape vents each with an un-obstructed opening measuring not less than two and one half (2½) inches (63.5mm) diameter.
- D. Maximum trap size: 22,950 cubic inches.
- E. Prohibition on possession of V-Notched female American lobsters: No person or vessel permitted or declared to fish in LCMA 6 shall possess a V-notched female lobster. The prohibition on possession of V-notched female lobster applies to all persons, including, but not limited to fishermen, dealers, shippers, and restaurants.
- F. Mandatory v-notching: There is no v-notching requirement in LCMA 6.
- G. Limits on Landings by Fishermen Using Gear or Methods other than Traps: Landings by fishermen using gear or methods other than traps (non-trap fishermen) will be limited to no more than one hundred (100) lobsters per day (based on a 24-hour period) up to a maximum of five hundred (500) lobsters per trip, for trips five (5) days or longer.
- H. Limits on the Number of Traps:

1. **Qualification Criteria:** The trap limit in LCMA 6 shall be based on the historical level of traps fished by an individual. To qualify for LCMA 6 participation, individuals must prove participation in the LCMA 6 lobster fishery between January 1, 1995 and June 8, 1998.
 2. **Basis for Initial Trap Limit Number:** Initial trap allocations to qualifying individuals shall be based on the number of traps fished in any one calendar year during the period from January 1, 1995 through June 8, 1998.
- I. **Season Closure:** A season closure to the landing of lobsters from September 8 through November 28 annually is required for any person or vessel permitted and declared to fish in LCMA 6. The season closure applies to both recreational and commercial fisheries and all gears. Between those dates possession of lobsters taken from LCMA 6 or from traps with LCMA 6 trap tags is prohibited. During this closure, lobster potters will have a two week period to remove lobster pots from the water and may set lobster pots one week prior to the end of the closed season. Traps cannot be baited until one week prior to reopening (November 22).

5.8.7 Outer Cape Cod LCMA:

- A. **Minimum size:** Three and one half (3 ½) inch (88.90mm) carapace length.
- B. **Maximum size:** There is no maximum size for American lobster in the Outer Cape Cod LCMA.
- C. **Minimum escape vent size:** In each parlor section of the lobster trap, at least one (1) rectangular escape vent with an un-obstructed opening measuring not less than two and one sixteenths inches by five and three-quarters (2-1/16 X 5¾) inches or two (2) circular escape vents measuring two and eleven sixteenths (2-11/16) inches.
- D. **Maximum trap size:** 22,950 cubic inches.
- E. **Prohibition on possession of v-notched female American lobsters:** It shall be unlawful for any person or vessel permitted or declared to fish in the Outer Cape Cod LCMA to possess a V-notched female lobster. The prohibition on possession of V-notched female lobster applies to all persons, including, but not limited to fishermen, dealers, shippers, and restaurants.
- F. **Mandatory v-notching requirements:** There is no v-notching requirement in the Outer Cape Cod LCMA.
- G. **Limits on landings by fishermen using gear or methods other than traps:** Landings by fishermen using gear or methods other than traps (non-trap fishermen) will be limited to no more than one hundred (100) lobsters per day

(based on a 24-hour period) up to a maximum of five hundred (500) lobsters per trip, for trips five (5) days or longer.

- H. Trap Reduction Schedule for Outer Cape Cod LCMA: Beginning in 2002 and extending through 2008, a 20% reduction in the total number of lobster traps allowed to be fished will occur in the Outer Cape Cod LCMA. An additional 5% reduction in the total number of lobster traps allowed to be fished per year may be employed in 2006 and 2007, if necessary, to meet lobster egg production goals and objectives.
1. In order to control the expansion of fishing effort, an overall total number of traps allowed to be fished in the Outer Cape Cod LCMA has been established from the sum of individual maximum traps reported by each Outer Cape Cod LCMA lobster fisher on Massachusetts (MA) catch reports in the year 1998. A reduction of this total number of traps by 20% will be implemented and resulting individual trap allotments will be defined accordingly during the stock rebuilding period. The starting trap allotments for each lobster fisher in the year 2002 will be based on MA 2000 catch report statistics. Allotments will be debited thereafter as needed by MA Division of Marine Fisheries (DMF). Participants in the 2001 Outer Cape Cod lobster trap fishery, who received a license through the MA DMF or waiting list provisions during 2001, and as a result, have no prior lobster fishing history (i.e. filed catch reports) in the Outer Cape Cod LCMA, will receive a trap allotment based on proof of documentation of the number of traps they fished during 2001. These allotments will be apportioned from a percentage of the overall trap cap, not to exceed 2% of the total. Those who received a transferred license with an Outer Cape Cod LCMA fishing history will receive a starting trap allotment based on that history.
 2. The annual trap transfer period will be January 1 – March 31. Trap tags may be transferred among Outer Cape Cod LCMA lobster fishers to allow an individual business to build up or down within the maximum allowable 800 trap limit, however, a passive reduction in traps will occur with each trap transfer event at the rate of 10%. For example, if 100 trap tags are transferred to a lobster fisher, the net transaction received by that lobster fisher will be 90 and the overall Outer Cape Cod LCMA trap cap will be reduced accordingly. The trap cap may be adjusted downward over time through active and/or passive reduction measures until such time that the Fishing mortality rate is reduced to a level below F10%.
 3. Each time a lobster license is transferred to another lobster fisher within the Outer Cape Cod LCMA, the trap tag allowance associated with that license will be reduced by 10%. No new participants will be permitted to partake in the Outer Cape Cod LCMA lobster fishery without receiving trap tags through a transfer from those fishing within the established total trap cap.

4. A trap haul-out period will occur from January 1 – March 31 each year to assist in the enforcement of the trap cap. There will be no lobster trap in the waters of the Outer Cape Cod LCMA during this time period.

5.9 Blue Crab:

- A. Harvest by RI residents only: The harvest of blue crabs by non-residents is prohibited (R.I. Gen. Laws § 20-7-15).
- B. Minimum size: Five (5) inches as measured across the shell from tip to tip of spike.
- C. Season: Open all year.
- D. Possession limit: Twenty-five (25) crabs.
 1. The possession limit is unlimited if harvested by a scoop or crab net, trot, or hand line.
- E. No person shall take blue crabs from the waters of the State between the hours of sunset and sunrise (R.I. Gen. Laws § 20-7-15).
- F. No person shall take, offer for sale, or possess at any time any female blue crab bearing eggs visible thereon or from which the egg pouch or bunion shall have been removed (R.I. Gen. Laws § 20-7-16).

5.10 Horseshoe Crab:

- A. Permit required: No person shall harvest horseshoe crabs without a valid Horseshoe Crab Harvest Permit obtained from the Director.
 1. Application for a Horseshoe Crab Harvest Permit shall be made on forms prescribed by the Director.
 2. A Horseshoe Crab Harvest Permit is valid for the calendar year of issuance.
- B. Harvest by RI residents only: The harvest of horseshoe crabs by non-residents is prohibited.
- C. Minimum size: Seven (7) inches prosomal width.
- D. Seasons and possession limits:
 1. Recreational:
 - a. Season: Open January 1 through December 31.

- b. Possession limit: Five (5) horseshoe crabs per person per day.
- 2. Commercial: A total allowable harvest (quota) of horseshoe crabs will be established annually as allocated to the State of Rhode Island by the ASMFC or as determined by ~~DFW~~ **Department** based on the current stock status.
 - a. Bait fishery season and possession limit:
 - (1) January 1 through April 30 annually: 60 crabs per person per day.
 - (2) May 1 through May 31 annually: Closed to harvest.
 - (3) June 1 through December 31 annually: 60 crabs per person per day.
 - b. Bio-medical fishery season and possession limit:
 - (1) Season: Open January 1 through December 31 annually.
 - (2) Harvest restriction: No person shall harvest horseshoe crabs for bio-medical purposes during the period 48-hours preceding and 48-hours following the new and full moons during the month of May annually.
 - (3) Possession limit: Unlimited.

E. Reporting:

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

- b. Second instance: A second offense shall result in revocation of the permit for the remainder of the calendar year for which the permit is issued.
 - c. Third instance: A third offense shall result in revocation of the permit for the remainder of the calendar year for which the permit is issued, and also result in the prohibition to apply for the permit in the subsequent year.
- F. No person shall harvest horseshoe crabs for commercial or recreational purposes on or within 100 feet seaward of Patience and Prudence Islands in Narragansett Bay.
- G. Prohibition on possession of non-indigenous horseshoe crab species: No person shall possess or attempt to possess in the cooked or un-cooked (frozen) state any non-indigenous (non-native) Horseshoe Crab species without prior, written authorization by the Department. The only species of Horseshoe Crab which may be possessed within the jurisdictional limits of the State of Rhode Island is the Atlantic Horseshoe Crab.
- H. Horseshoe crabs harvested and transported to a biomedical facility for purposes of extracting bodily fluids shall be returned to the waters from which they were taken within 72 hours following the completion of the biomedical procedure, or intended procedure if no procedure was performed. The harvester is responsible and liable for returning the crabs and shall make every attempt to assure their survival. Prior to returning the crabs to the water, the harvester shall report to DEM's Division of Law Enforcement by calling 401-222-3070, and include the name of harvester, the number of crabs being returned, and location where the crabs will be returned.
- I. A control date of January 6, 2017 is established for the horseshoe crab fishery.

5.11 Jonah Crab:

- A. Recreational:
 - 1. Season: Open all year.
 - 2. Possession limit: Fifty (50) whole Jonah crabs per person per day.
- B. Commercial:
 - 1. Eligibility for participation: Any licensed person who holds a lobster trap allocation (LTA), or any person who does not hold an LTA but can prove participation in the Jonah crab fishery prior to the control date, shall be eligible for continued participation in the fishery. Proof of participation shall be documented by RI Harvester Logbooks and/or SAFIS dealer reports.

2. Minimum size: Four and three quarters (4.75) inches as measured across the widest point of the carapace.
 3. Minimum escape vent and maximum trap size: Minimum escape vent and maximum trap size for a trap utilized in the taking of Jonah crab shall meet the requirements as specified in § 5.8.1(l) of this Part pertaining to lobster pots.
 4. Season: Open all year.
 5. Possession limit:
 - a. For persons holding a Lobster Trap Allocation (LTA): Unlimited.
 - b. By gillnet or otter trawl (i.e., non-trap gear): One thousand (1,000) crabs per vessel per calendar day.
 - c. By gear types other than gillnets or otter trawls (i.e., non-lobster trap gear): One thousand (1,000) crabs per vessel per calendar day.
- C. Harvest restrictions:
1. Egg-bearing Jonah crabs: No person shall take, offer for sale, or possess at any time any female Jonah crab bearing eggs visible thereon or from which the egg pouch or bunion shall have been removed.
 2. Only whole Jonah crab may be retained and sold.
- D. Control date: The control date for the Jonah Crab fishery is June 2, 2015.

5.12 Atlantic Rock Crab:

- A. Control date: The control date for the Atlantic Rock Crab fishery is June 1, 2016.

Public Hearing
February 11, 2018

Proposed/annotated amendments

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

250-RICR-90-00-6

TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 90 – MARINE FISHERIES

SUBCHAPTER 00 – N/A

PART 6 – General Equipment Provisions

6.1 Purpose

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

6.2 Authority

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

6.3 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.

6.4 Definitions

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

6.5 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.

6.6 Superseded Rules and Regulations

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

6.7 General

A. Recreational use of nets for bait:

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.
2. A two-quart per person possession limit is authorized for all un-regulated marine species any marine species that is not regulated by size, possession, and/or season.
3. Beach seines or other nets used for the recreational harvest of marine species shall not exceed four (4) feet in depth and twenty (20) feet in length.

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

C. Pots and buoys:

1. No person except the Director shall unduly disturb any pot or associated line (warp) and/or buoy, or remove any marine species from a pot, without the written permission of the owner. (ref. R.I. Gen. Laws § 20-4-8).
2. Each pot used for the taking of marine species shall have attached a buoy, and each pot and buoy shall be identified with the name and license number of the owner. (ref. R.I. Gen. Laws § 20-4-7)
3. The use of floating line within eight (8) feet of the surface of the water, that is attached to any fixed gear buoy, is prohibited.
4. Each pot used for the taking of marine species shall bear a color scheme on the attached buoy consistent with the color specified on the license. The buoy color scheme shall also be displayed on any vessel used by the licensee, such that the colors shall be painted on the port and starboard sides of the hull in a section, not less than one foot (1') square; or a clearly painted buoy shall be set at the highest point on the vessel excluding the

mast and be visible for 360°. The buoy or colors must be prominently displayed on the vessel at all times that gear is in the water.

5. No person shall place, set, lift, raise, unduly disturb, draw in, or transfer any pot unless the color scheme of the attached buoy is the same as the color scheme that is on file with the license application and displayed on the boat used by that person, or unless that person is duly licensed and possesses written permission from the rightful owner of the pot, trap, or other device (ref. R.I. Gen. Laws § 20 7 11.1(b)).

6.8 Commercial netting

6.8.1 Prohibited areas (waters) for all commercial netting:

- A. All netting, except licensed fish traps are prohibited in the Harbor of Refuge and within one hundred (100) yards of the Harbor of Refuge breakwater;
- B. In all coastal salt pond channels;
- C. In Point Judith Pond in the following locations:
 1. In the southern portion of Point Judith Pond from the Harbor of Refuge Breakwater and bounded on the north by a line from Strawberry Hill Point to High Point, and on the east by the Great Island Bridge;
 2. In the northern portion of Point Judith Pond, in the Narrows bounded on the west by a line from Betty Hull Point to Short Point, and on the east by a line from Blue Rock Point to Old Cellar Point;
 3. In all waters north of a line from Ram Point to Squally Point.
- D. In the northern portion of Potter Pond, within one hundred (100) feet of the Captain's Brook.
- E. In the Narrow River in the following locations:
 1. Within three hundred (300) yards of the seaward entrance to the river;
 2. Between Middle Bridge and a point located eight hundred (800) feet north of Bridgetown Road Bridge;
 3. Within one hundred (100) feet north and south sides of the upper Narrows;
 4. Within one hundred (100) feet east and west of the seaward mouth of Gilbert Stuart Brook.

- F. In the Pawcatuck River and Little Narragansett Bay north of a line from Pawcatuck Rock to Thompson Point, except for seining between February 1 and April 15 annually.
- G. All fixed gear is prohibited in the Foster Cove Channel and in the narrows in Charlestown Pond.

6.8.2 Trawling Devices:

- A. Net obstruction or constriction: Any fishing vessel subject to minimum mesh size restrictions using a trawl net shall not use any device or material, including, but not limited to, nets, net strengtheners, ropes, lines, or chafing gear, on the top of a trawl net, except that one splitting strap and one bull rope (if present), consisting of line and rope no more than three (3) inches in diameter, may be used if such splitting strap and/or bull rope does not constrict, in any manner, the top of the trawl net. "The top of the trawl net" means the fifty (50) percent of the net that (in a hypothetical situation) would not be in contact with the ocean bottom during a tow if the net were laid flat on the ocean floor. For the purpose of this paragraph, head ropes are not considered part of the top of the trawl net.
- B. Trawling ground gear: The use of rollers, rockhoppers or discs greater than twelve (12) inches in diameter is prohibited while fishing in Rhode Island waters.

HEARING ITEM 19. – Clarification of open and closed periods of the Upper Narragansett Bay Trawling Area to trawling (Part 6, section 6.8.2(C)(1)).

- C. Prohibited areas: In addition to those waters where all netting is prohibited, a trawling device is prohibited in the following areas:
 - 1. In the Upper Narragansett Bay Trawling Area ~~from November 2 through June 30, and~~ on any Saturday, Sunday, or legal State holiday ~~between from~~ July 1~~st and through~~ November 1st annually. ~~The Upper Narragansett Bay Trawling Area:~~

HEARING ITEM 20. – Clarification of area description of the Upper Narragansett Bay Trawling Area (Part 6, section 6.8.2(C)(1)(a)).

- a.** The Upper Narragansett Bay Trawling Area is designated a Marine Life Management Area pursuant to R.I. Gen. Laws § 20-3-4, and is described as the ~~follows: the southern boundary extends waters~~ **north of a line extending** from Spink Neck in the Town of North Kingstown to Pine Hill Point on Prudence Island; ~~thence and~~ from Homestead Dock on the easterly shore of Prudence Island; ~~thence northeasterly to the~~ Hog Island Shoal Light; ~~and thence~~ to the north

abutment of the Mt. Hope Bridge in the Town of Bristol; ~~the western and south of a line extending~~ boundary extends from Sandy Point ~~in the City of Warwick~~ to the southern tip of Warwick Point in the City of Warwick; ~~the northern boundary extends from~~ and from the dock at Rocky Point in the city of Warwick to the southern tip of Poppasquash Point ~~in Bristol, thence to Hog Island Light~~ Castle Island, ~~and thence~~ to the northern abutment of the Mt. Hope Bridge in the town of Bristol.

2. In the Upper Sakonnet Marine Life Management Area.
 - a. The Upper Sakonnet River Marine Life Management Area is designated a Marine Life Management Area pursuant to R.I. Gen. Laws § 20-3-4 and is described as the waters ~~of the Upper Sakonnet River which lies~~ north of a line extending from McCurry Pt. in Portsmouth to the southern end of Jack's Island (so-called) in Tiverton, and ~~which lies~~ south of the Sakonnet River Bridge (Rt. 24).
3. In all coastal salt ponds, except for otter trawling in Charlestown Pond and Quonochontaug Pond in accordance with these regulations.

D. Otter Trawling:

1. Areas prohibited:
 - a. Charlestown Pond: Otter trawling is prohibited on Saturdays, Sundays, and legal State holidays, annually, in that portion of the pond located south of a line extending from Marsh Point and Horse-shoe Point on the Arnolds shore; west of a line extending from DEM markers located on Marsh Point and Marsh Neck Point; and east of a line extending from the east shore of the Foster Cove channel and a DEM marker located on the barrier beach;
 - b. Quonochontaug Pond: Otter trawling is prohibited on Saturdays, Sundays, and legal State holidays, annually, in that portion of the pond located south of a line extending from a DEM marker located at the end of Quahaug Point to the northern end of Nopes (Barn) Island, and east of a line extending south from Quahaug Point to a DEM marker located on the barrier beach;
 - c. In Potter Pond in its entirety.
2. No person shall utilize an otter trawl in the following areas between November 1 through February 28 annually, that has a mesh size which measures less than six (6) inches stretched mesh (measured inside knot to inside knot) in the following areas:

- a. In Narragansett Bay north of a line extending from the easternmost extension of Carrier Pier in North Kingstown to Conanicut Pt. in Jamestown, thence to the tips of the T Pier on Prudence Island to Carr's Point in Portsmouth;
- b. In the Sakonnet River north of a line from Sachuest Pt. in Newport to Sakonnet Point in Little Compton;
- c. In Quonochontaug and Charlestown Pond in their entireties.

6.8.3 Gill netting

A. Gill netting for bait:

1. Bait gill nets must be clearly labeled with the name of the person setting or tending the net and be constantly tended. No person shall set, haul, and/or maintain a gill net for bait so as to obstruct the free passage of fish in Rhode Island coastal waters, streams, rivers, or bays.
2. A bait gill net shall not exceed one hundred (100) feet nor exceed a mesh size greater than three and three quarters inches (3 3/4") (stretched).

B. Prohibited areas: In addition to those areas where all netting is prohibited, and with the exception of gill netting for bait, commercial gill netting is prohibited in the following areas:

1. In all coastal salt ponds;
2. In the Pawcatuck River;
3. In Little Narragansett Bay;
4. Within one and one half (1-1/2) miles south (true) and west (true) of Napatree Point;
5. Within one half (1/2) mile in both directions of the seaward entrance to a coastal salt pond channel, and for a distance of three hundred (300) yards seaward, when such coastal salt pond is open to the sea;
6. Within one half (1/2) mile of Block Island between April 15 and November 15 annually.
7. Within fifty (50) yards of the entire Rhode Island coastline (mean high water line) during the period October 15 - December 31, annually.
8. Within fifty (50) yards of the Rhode Island coastline (mean high tide line) in the following areas:

- a. From Monahan's Dock breakwater (State Pier #5) to the southernmost tip of Matunuck Pt. (Carpenter's Bar);
 - b. In Narragansett Bay north of the Colregs line, including Mt. Hope Bay;
 - c. In the Sakonnet River;
 - d. From the southern tip of Sachuest Point to the juncture of Second Beach and Sachuest Point; and,
 - e. From the southwest corner of Price's Neck to Castle Hill Light House.
- C. Gill nets shall be connected in a continuous series not to exceed 3,000 linear feet.
- D. Setting pattern: Each gill net shall be set in a straight line (from one end buoy to the other).
- E. No person shall set, haul, or maintain a gill net within 3,000 feet of a licensed floating fish trap.
- F. No person shall set, haul, and/or maintain a gill net in R.I. State waters during the month of March, annually.
- G. No person shall take or possess any striped bass while gill netting, or while hauling a gill net, including while gill netting for bait.
- H. Marking of nets with buoys:
1. Both ends of a gill net shall be marked with an orange or fluorescent orange bullet shaped buoy with a size of nine (9) by sixteen (16) inches, and be clearly marked with the letters "GN" with a minimum letter height of three (3) inches and include the name and license number of the licensee.
 2. For gill nets set, hauled, and/or maintained south of the Colregs line, all buoy lines must be marked with three (3) individual green colored marks measuring twelve (12) inches: one (1) at the top, one (1) at the midway point, and one (1) at the bottom of each buoy line.
- I. Tagging of nets:
1. Vessels permitted and participating in the gill net tagging program administered by the NOAA Fisheries Greater Atlantic Regional Office, and which are not participating in the Rhode Island tagging program, may transit Rhode Island State waters with gill nets on board the vessel only if

all gill nets are stowed, and, when applicable, have the federal gillnet tags permanently attached.

2. No gill net shall be set, hauled and/or maintained in Rhode Island State waters without permanently attached non-transferable tags issued by the Director.
3. Eligibility: Gill net tags are available only to a multipurpose license holder with gill net endorsement.
4. Only one set of tags shall be designated to a commercial license holder.
5. License holders are eligible to receive a maximum of 80 tags, plus an additional 10 tags for routine loss. No more than 80 tags shall be in the water at any one time. No person shall possess at any one time more tags than are authorized.

HEARING ITEM 21. – Extension of gill net tag valid dates
(Part 6, section 6.8.3(I)(6)).

6. ~~Tags shall be valid in 2-year increments beginning January 1 and ending December 31 the following year.~~ **Nets are required to be tagged beginning January 1, 2017. The current valid tags are colored orange and will be valid until January 1, 2021.**
 7. Tags shall be attached to every string of gill nets as follows: one tag shall be attached on each of the two terminal ends, at the bridle of each end net panel; and one tag shall be attached on every other bridle of each net panel within the string.
 8. No person shall transfer gill net tags between nets or between individuals or vessels.
 9. No person shall file a false claim of tag loss.
- J. Tending of nets:
1. A gill net with a mesh size less than or equal to ten (10) inches must be hauled at least once each calendar day.
 2. A gill net with a mesh size greater than ten (10) inches must be hauled at least once every 7 days.
- K. Weak link and anchor requirements for gillnets set, hauled, and/or maintained south of the Colregs line:

1. All buoys, floatation devices and/or weights must be attached to the buoy line with a weak link having a breaking strength of no greater than 1,100 pounds.
2. For nets that return to port each day with the vessel, net panels must have a weak link having a breaking strength of no greater than 1,100 pounds at the center or each float line or at least every 25 fathoms along the float line of a panel longer than 50 fathoms.
3. For nets which do not return to port with the vessel, weak links of not greater than 1,100 pounds must be incorporated into net panels following one of the two configurations required by the NOAA Fisheries Atlantic Large Whale Take Reduction Plan.
4. All gill nets that do not return to port with vessel, regardless of number of net panels, shall be required to be anchored with the holding power of at least a 22-pound Danforth-style anchor at each end of the net string (must be a burying anchor; no dead weights).

L. Pinger Specifications:

1. A pinger is an acoustic deterrent device which, when immersed in water, broadcasts a 10 kHz (± 2 kHz) sound at 132 dB (± 4 dB) re 1 micropascal at 1 m, lasting 300 milliseconds (± 15 milliseconds), and repeating every 4 seconds (± 0.2 seconds).
2. Pingers shall be properly attached to each gill net during the following time periods, annually:
 - a. December 1 through February 28 (February 29 on leap years); and,
 - b. April 1 through May 31.
3. Pinger Attachment: A pinger shall be attached at the end of each string of each gill net and at the bridle of every net within a string of nets (e.g., in a gill net string consisting of 3 nets, 4 pingers would be required).
4. Pinger Maintenance: Pingers shall be maintained in an activated state at all times.

M. Drift and sink gill nets: Only a floating and bottom tending gill net may be set, hauled, or maintained in Rhode Island waters.

1. A floating gill net must be constantly tended;
2. Minimum mesh size for a bottom tending gillnet: No bottom tending gill net shall have a mesh size smaller than five (5) inches stretched mesh.

N. Additional area specific regulations:

1. No person shall set, haul, and/or maintain a gill net in Narragansett Bay, Mount Hope Bay, or Sakonnet River, north of the Colregs line, which does not meet the following specifications:
 - a. Maximum length: A single gillnet, or series of connected gillnets, shall not exceed 300 feet.
 - b. Spacing: No gillnet shall be set within 150 feet of shore at mean low water, or within 2000 feet of another gillnet.
2. Waters within one half (1/2) nautical miles of the Rhode Island coast (mean high tide line) and south of the Colregs line:
 - a. Maximum length: A series of connected gillnets shall not exceed a total length of six hundred (600) feet.
 - b. Setting pattern: Each gillnet shall be set perpendicular to the shore.
 - c. Spacing: No gillnet shall be set within two thousand (2000) feet of another gillnet.
3. Waters between one half (1/2) nautical miles and three (3) nautical miles from the Rhode Island coast (mean high tide line):
 - a. No gill net shall be set within two thousand (2000) feet of another gillnet during the period from April 1 to October 1.
 - b. Marking:
 - (1) A series of connected gill nets greater than six hundred (600) feet and less than or equal to twelve hundred (1,200) feet must be marked with two (2) orange or fluorescent orange floats with a size of nine (9) x sixteen (16) inches on the westernmost end as measured on a compass circle from magnetic south through west to, and including, north and one orange or fluorescent orange floats with a size of nine (9) x sixteen (16) inches on the easternmost end side as measured on a compass circle from magnetic north through east to, and including, south. In the case of nets set in a due north south line, the two orange or fluorescent orange floats with a size of nine (9) x sixteen (16) inches should be placed on the southernmost end.
 - (2) A series of connected gillnets greater than 1,200 feet must be marked with an orange or fluorescent orange float with a

size of 9 x 16 inches and a radar reflective highflyer at each end. One of the radar reflective highflyer is to be marked with a flag on the westernmost side as measured on a compass circle from magnetic south through west to, and including, north. The easternmost side as measured on a compass circle from magnetic north through east to, and including, south is to be marked with a radar reflective highflyer that must remain flagless. In the case of nets set in a due north south line, the flag on the radar reflective highflyer should be placed on the southernmost end.

6.8.4 Fyke nets

- A. The fyke net must be permitted by DEM prior to being placed in the marine waters of the State. Persons applying for such permit shall provide the dates of use, location, and net measurements.
- B. Any fyke net placed in the marine waters of the State shall meet the following dimensions:
 - 1. Maximum length of fyke net leader: One hundred (100) feet.
 - 2. Maximum mesh size: Stretched mesh shall not be greater than two and one half (2½) inches.
 - 3. Leader: Must not extend more than 4 feet off the bottom.
- C. Fyke nets must be tended and hauled every 48 hours.
- D. Fyke nets shall not be placed within 250 feet of any other fishing net.
- E. Prohibited areas: In addition to those waters where all netting is prohibited, fyke nets are prohibited in Charlestown and Quonochontaug Ponds between June 15 and September 15 annually.

6.8.5 Seine nets

Prohibited areas: In addition to those waters where all netting is prohibited, seine nets are prohibited within one half (½) mile in both directions of the seaward entrance of a coastal salt pond channel for a distance of three hundred (300) yards seaward, when the coastal salt pond is open to the sea.

6.8.6 Fish traps

- A. Permit required: No person shall set a fish trap in the public waters of the state without first obtaining a permit as provided in these regulations. (R.I. Gen. Laws § 20-5-1).

- B. Eligibility: A permit may be issued to any resident of this State or to any corporations incorporated in the State licensed in accordance with R.I. Gen. Laws Chapter 20-2.1 upon payment of a permit fee of twenty dollars (\$20.00) per trap location (R.I. Gen. Laws § 20-5-2).
- C. Application: Application for a fish trap permit shall be made on forms as prescribed by the Director.
- D. Expiration and renewal of permits:
1. Permits shall be provided for a three (3) year period, or for that portion thereof expiring on the last day of December of each third year thereafter.
 2. On termination of any permit, the Director may renew the permit by issuing a new permit in place of the permit.
 3. Eligibility: Application for permit renewal shall be made within ten (10) days before its termination. Failure to apply for a permit renewal shall allow for a permit application in location as specified in the permit by any other person (R.I. Gen. Laws § 20-5-9).
- E. Exclusive right of permittee; assignment of permit:
1. The holder of any permit, or the holder's heirs, executors, administrators, successors, or assigns shall have the exclusive right to fish the location by means of a fish trap, provided that the site is and has been actively fished.
 2. Any holder of a permit may, upon approval of the Director, transfer the permit to any suitable person. This approval must be endorsed on the permit in order to become effective (R.I. Gen. Laws § 20-5-10).
- F. Report as to traps placed; failure to occupy location; removal of permit from State: On or before the tenth day of January in each year every person holding a permit pursuant to this chapter shall notify the DEM in writing, under oath, what traps were placed under the permit during the preceding calendar year. Failure to furnish this information makes the permit null and void after that date. Failure to place a complete fish trap on a permitted location for a part of one calendar year may, in the discretion of the Director, make the permit for the fish trap null and void; and the location will then become available for any suitable applicant. A permit for a fish trap location becomes null and void upon the removal of the holder from the State (R.I. Gen. Laws § 20-5-13).
- G. Removal of trap on cessation of use; closed season; damaged or dilapidated traps: Upon ceasing to use any fish trap as authorized, that structure shall at once be removed by the owner at the owner's expense and to the satisfaction of the Director. Failure to remove it shall be considered sufficient grounds for prosecution of the owner for maintaining a public nuisance or for revocation of the fish trap permit. Unless otherwise specified by regulations, all fish traps

authorized in this chapter shall be completely removed by or before the last day of December of each year; and no fish trap shall be reset before the first day of the following March. All submerged or broken stakes must be promptly removed. Any fish trap damaged or allowed to get into a dilapidated condition will be regarded as abandoned unless promptly removed or rebuilt. Failure to do this will subject the owner to prosecution and forfeiture of the trap (R.I. Gen. Laws § 20-5-14).

- H. Reporting requirements: On or before the tenth day of January of each year, each licensee/fish trap operator shall submit a written report to the DEM, indicating those locations where the licensee shall be setting fish traps during the upcoming fishing season. These locations shall be identified by GPS, LORAN and/or latitude and longitude coordinates and shall also include the dates upon which the licensee anticipates setting and removing the traps. This notification shall not prohibit a fish trap operator from subsequently, during the calendar year, setting additional traps on licensed locations that were not anticipated and for which notice was not therefore provided to the DEM. However, any deviations from the report must be reported in writing and received by the DEM Division of Marine Fisheries, 3 Fort Wetherill Road, Jamestown, Rhode Island, 02835 prior to the setting of the trap. Failure to provide this information makes the fish trap operator's license null and void. Based on the reports of fish trap locations, the DEM shall develop a graphic chart displaying fish trap locations annually by June 1 for distribution to the public.
- I. By January 31 annually, the DEM shall review all trap site permits and shall eliminate those sites from the list of authorized sites for which a permit has not been issued. The DEM shall provide written notice by registered mail to all those licensees who had most recently been issued permit(s) to set fish trap(s) in the locations of the sites to be eliminated. Said notice shall advise the affected licensee that the licensee may avoid the elimination of the trap location if written notice of such a desire to avoid elimination is received by the Division of Marine Fisheries, 3 Fort Wetherill Road, Jamestown, Rhode Island, 02835, on or before thirty (30) days of the licensee's receipt of the notice of elimination.
- J. Sub-leasing of Permitted Fish Trap Locations: It is prohibited to sub-lease or allow any other person to use a permitted fish trap location. Any violation of this section shall make the permit for the fish trap null and void R.I. Gen. Laws §§ 20-5-10(b), 20-5-13.
- K. Hook-backs in Leaders: Each leader shall be set as nearly as may be in a straight line, no bend or angle, known commonly as a "hook-back," shall be permitted (R.I. Gen. Laws § 20-5-7).
- L. Minimum distance between traps: The Director may grant a license for the erection of a fish trap within a lesser distance of 3,000 feet of an adjoining trap if the parties interested agree in writing to such a lesser distance. Such decisions

shall be made with the advice of the Rhode Island Marine Fisheries Council (R.I. Gen. Laws § 20-5-4).

- M. Maximum length of trap leader: No permit shall be granted for a fish trap in which the length of the trap and leader is greater than two hundred eighty (280) fathoms (R.I. Gen. Laws § 20-5-4).
- N. Willful injury to traps: No person shall willfully or maliciously cut, remove, displace, tamper with, or in any way damage any trap, leader, or pound set by virtue of the permit provided for in these regulations (R.I. Gen. Laws § 20-5-18).
- O. Navigational Aids to Fish Traps and Appurtenances:
 - 1. Licensees must comply with the following requirements; failure to comply shall make license null and void. All floating fish traps deployed within Rhode Island State waters shall be marked with no less than 4 radar reflective buoys (hi-flyers) each positioned no more than 100 feet from the trap or its appurtenances in the following locations: one buoy shall be located at the shoreward end of the leader, one buoy on the seaward end of the leader adjacent to the head of the trap, and two buoys shall be located on the seaward side of the head of the trap.
 - 2. Floating fish traps located at sites 13F, 26C, 25B, 398, 120-19, 122-19, 383-19, 75A, 68B, 69B, 400-23, and 475-30 shall be marked as specified by the United States Coast Guard in its communication to the Department dated September 13, 2005. Specifically, site 13F shall be marked with a 5th class buoy with a 4 second flashing light. Site 26C shall be marked with a 5th class buoy with a 6 second flashing light. Site 25B shall be marked with a 5th class buoy with a 4 second flashing light at the southern end of the trap and an unlit 5th class buoy at the northern end. Sites 398 and 383-19 shall be marked with an unlit 5th class buoy. Sites 75A, 69B, 475-30 and 68B shall be marked with an unlit 6th class buoy. Sites 122-19 and 400-23 shall be marked with a 5th class buoy with a 2.5 second flashing light. Each of the above-described buoys shall be positioned within 100' of the head of the floating fish trap and its appurtenances.
- P. Restricted Locations: No fish traps shall be erected within the waters of the State with the exception of the following sites:
 - 1. The following sites are located south of Newport and Middletown within the area designated for floating fish traps by the Army Corp of Engineers:
 - a. Sites 13B, 13C, 13D, 13E, and 13F, located in a line extending southeasterly at approximately 135° beginning at Seal Rock (41° 26'39"N, 71° 20'49"W) so-called, and ending at approximately 41° 25'1"N, 71° 18'0"W;

- b. Sites 26A, 26B, 26C, and 26D located in a line extending southeasterly at approximately 135° from Flat Rock (41° 27'03"N, 71° 18'24"W) so-called, and ending at approximately 41 26'15"N, 71 17'0"W;
- c. Sites 111 and 112 located in a line extending southwesterly at approximately 225° from the west side of Price's Neck (41° 26'58"N, 71° 20'15"W), so-called, for a distance not exceeding 1,500 feet;
- d. Sites 133, 136 and 324 located in a line extending southeasterly at approximately 150° from the east side of Price's Neck (41° 27'0"N, 71° 20'5"W), so-called, for a distance not exceeding 3,300 feet;
- e. Sites 113A, 113B, 113C, 113D, 113E, and 113F located in a line extending southeasterly at approximately 135° from Coggeshall's Point (41° 27'4" N, 71°18'42" W) so-called, beginning just south of the inner area designated by the Army Corp of Engineers at approximately 41°26'6"N, 71°16'56"W and ending near the eastern limits of the outer area designated by the engineer's office of the Department of the Army at approximately 41° 24'50"N, 71°14'47"W;
- f. Sites 25A, 25B and 25C located in a line beginning approximately seven thousand four hundred feet (7,400') south-southeast (200°) of Cormorant Rock (41°27'36"N, 71°14'51"W) so-called, at approximately 41° 26' 29" N, 71° 15' 29" W extending southeasterly (120°) and ending at approximately 41° 25' 56" N, 71° 14' 21" W;
- g. Sites 54A and 54B located in line extending northwest at approximately 310° for three thousand three hundred sixty feet (3,360') beginning at the southerly limits of the outer area designated by the engineer's office of the Army Corp of Engineers at approximately 41°24'48"N, 71°16'56"W, 5,000 feet east-southeast of the southeastern end of the line from Seal Rock described in subdivision (a) and ending at approximately 41°25'10"N, 71°17'30"W;
- h. Sites 37A and 37B located in line extending northwest at approximately 310° for 3,360' (1,680' each) beginning at the southerly limits of the outer area designated by the Army Corp of Engineers at approximately 41°24'36"N, 71°15'51"W, 5,000 feet east-southeast of the southeastern end of the line from Seal Rock described in subdivision (g) and ending at approximately 41°24'58"N, 71°16'26"W;
- i. Sites 116 and 117 located in a line extending southeast at approximately 125° for 3,000 feet (1,500' each) from Gull Rock

(41°27'33"N, 71°18'1"W) so-called, and ending at approximately 41°27'13" N, 71°17'29" W;

- j. Sites 501A and 501B located in a line extending southeast at approximately 125° for 3,360 feet (1,680' each) beginning at approximately 41°27'8"N, 71°17'35"W and ending at approximately 41°26'44"N, 71°16'54"W;
 - k. Site 287 beginning at the high tide line 600 feet south of "forty steps" at approximately 41°28'26"N, 71° 17'49"W and extending east by south at approximately 100° for 1,680 feet;
 - l. Site 23, designated for a pound net, is located approximately 4,600' south of Easton's Point so-called, at approximately 41°27'56"N, 71°16'31"W and is of the dimensions 600' by 600';
 - m. Sites 383-19A and 383-19B located in line beginning northeast of Sachuest Point at approximately 41°28'30"N, 71°14'22"W, extending at approximately 135° for 3,360 feet and ending at approximately 41°28'8"N, 71°13'49"W;
 - n. Site 512-19 begins approximately 2,250 feet south of flint point (41°29'9"N, 71°14'16"W) so-called, on the east side of Sachuest Point, and extends at approximately 135° for 1,680 feet ending at approximately 41°28'35"N, 71°13'58"W;
 - o. Site 364, beginning at approximately 41° 27' 27" N and 71° 21' 35" W south of Castle Hill Lighthouse near Perry's Cove, extends approximately 400' west at approximately 270°, ending at approximately 41° 27' 23" N and 71° 21' 41";
 - p. Sites 191 and 192 extend in line off the southeast side of Easton's Point (41°28'45"N, 71°16'30"W) in a southwesterly direction at approximately 145° beginning at approximately 41° 28' 49" N and 71° 21' 41" W and ending at approximately 41° 28'39" N and 71° 16' 14" W.
2. The following sites are located near Sakonnet Point within the area designated by the Army Corp of Engineers:
- a. Site 119-19 located approximately one mile south of Church's Point (41°29'59"N, 71°12'22"W) so-called, beginning at approximately 41°29'12"N, 71°11'45"W and extending 1,680 feet west by southwest at approximately 250°;
 - b. Site 581-19 located approximately one mile south of Church's Point (41°29'59"N, 71°12'22"W), beginning at approximately 41°29'4"N, 71°12'14"W in line with and 900 feet from the outer end of site 119-

19 and extending 1,680 feet west by southwest at approximately 250°;

- c. Site 580-19 located approximately 7,000 feet north of the breakwater (41°27'58"N, 71°11'43"W) beginning at approximately 41°29'2"N, 71°11'52" W and extending 1,680 feet west by south at approximately 250°;
- d. Site 293-19 located approximately 6,000 feet north of the breakwater (41°27'58"N, 71°11'43"W) beginning at approximately 41°28'55"N, 71°11'26"W and extending 1,680 feet west by south at approximately 250°;
- e. Site 227-19 located approximately 3,500 feet northeast of the breakwater (41°27'58"N, 71°11'43"W) beginning at approximately 41°28'31"N, 71°11'27"W and extending 1,680 feet west at approximately 270°;
- f. Site 584-19 located approximately 2,700 feet north of the breakwater (41°27'58"N, 71°11'43"W) beginning at approximately 41°28'24"N, 71°11'47"W and extending 1,680 feet west at approximately 270°;
- g. Site 122-19 located approximately 1,400 feet northeast of the breakwater (41°27'58"N, 71°11'43"W) beginning at approximately 41°28'14"N, 71°11'36"W and extending 1,680 feet west at approximately 255°;
- h. Site 120-19 begins approximately 300 feet north of the shore end of the Sakonnet breakwater (41°27'53"N, 71°11'45"W) and extends 1,680 feet west at approximately 270°;
- i. Site 261-19 begins 2,000 feet south of breakwater point (41°27'53"N, 71°11'45"W) at approximately 41°27'34"N, 71°11'41"W and extends 1,680 feet west at approximately 270°;
- j. Sites 398 and 118, located west of Sakonnet Point, extend in a line west by south at approximately 240° for 3,360 feet (1,680 feet each) beginning at the Sakonnet Lighthouse rock (41°27'10"N, 71°12'10"W) and ending at approximately 41°26'55"N, 71°12'49"W;
- k. Site 58 begins at the Sakonnet Lighthouse rock (41°27'10"N, 71°12'10"W) and extends 1,680 feet south at approximately 180°;
- l. Sites 79A and 79B, located in line, extend west by south from West Island (41°27'0"N, 71°11'54"W) so-called, at approximately 250° for 3,360 feet to approximately 41°26'36"N, 71°12'30"W;

- m. Site 114A begins approximately 3,200 feet south be west of West Island (41°27'0"N, 71°11'54"W) so-called, at approximately 41°29'48"N, 71°7'33"W and extends at approximately 170° for 1,680 feet;
 - n. Site 29 begins approximately 8,400 feet southwest of West Island so-called, at 41°25'46.1"N, 71°12'41.7"W and extends due south (180° on the compass rose) to 41°25'46.1"N, 71°12'41.7"W for a distance of approximately 1,680 feet;
 - o. Sites 614A and 614B, located in line, extend south beginning 2,000 feet east of Dolphin Rock (41°27'13"N, 71°11'7"W), so-called, at a bearing of approximately 180° for 3,360 feet;
 - p. Site FC-1, located north of Coddington Cove, begins at approximately 41° 32' 33"N, 71° 18'52"W and extends at approximately 60° towards shore ending at approximately 41°32'40"N, 71°18'42"W;
 - q. Site FC-2, located off Coddington Point, begins at approximately 41°32'27"N, 71°19'40"W and extends at approximately 180° towards shore ending at approximately 41°32'21"W, 71°19'39"N;
 - r. Site FC-3 begins approximately 1,500 feet west of the State line at approximately 41°26'31"N, 71°12'9"W and extends south from South Shore Beach, Little Compton at approximately 180° for 1,680 feet;
 - s. Site FC-4 begins approximately 3,000 feet south of the southwest corner of Tunipus Pond, Little Compton at approximately 41°25'39"N, 71°12'16"W and extends 1,680 feet at approximately 110°;
 - t. Site 583-19 located southwest of site 120-19 extends 1,680 feet east at approximately 90°;
 - u. Site 585-19 located northwest of Sakonnet Point begins at approximately 41°28'33"N, 71°12'41"W and extends 1,680 feet east at approximately 90°;
 - v. Site 586-19.
3. The following sites are located east of the shore in Narragansett north of Scarborough Beach and south of Narragansett Pier within the area designated by the Army Corp of Engineers for fish traps:

- a. Sites 68A and 68B, located in line, begin approximately 1,500 feet north of Indian Rock (41°24'54"N, 71°27'8"W), so-called, and extend southeast by east at approximately 120° for 3,360 feet;
 - b. Sites 69A and 69B, located in line, begin approximately at Indian Rock (41°24'54"N, 71°27'8"W), so-called, and extend southeast by east at approximately 115° for 3,360 feet;
 - c. Sites 70A and 70B, located in line, begin approximately 2,000 feet south of Indian Rock (41°24'54"N, 71°27'8"W), so-called, and extend southeast by east at approximately 115° for 3,360 feet;
 - d. Sites 74A and 74B, located in line, begin approximately 5,100 feet south of Indian Rock (41°24'54"N, 71°27'8"W), so-called, and 600 feet from shore and extend southeast by east at approximately 130° for 3,360 feet;
 - e. Sites 75A and 75B, located in line, begin approximately 8,300 feet south of Indian Rock (41°24'54"N, 71°27'8"W), so-called, and extend southeast by south at approximately 145° for 3,360 feet.
4. The following sites are located within the area of the Harbor of Refuge in Point Judith:
- a. Site 22-29, located outside of the Harbor of Refuge, begins approximately 1,200 feet northwest from the outer end of the west breakwater at approximately 41°22'5"N, 71°31'5"W and extends at approximately 250° for 550 feet;
 - b. Site 400-23, located outside the Harbor of Refuge, begins approximately 500 feet northwest from the outer end of the west breakwater at approximately 41°21'38"N, 71°29'34"W and extends at approximately 250°;
 - c. Site 475-29, located within the Harbor of Refuge, begins approximately at approximately 41°21'47"N, 71°29'34"W in front of Breakwater Village, so-called, and extends southwest at approximately 225° for approximately 900 feet;
 - d. Site 475-30, located within the Harbor of Refuge, begins approximately 500 feet north from the outer end of the east breakwater at approximately 41°22'5"N, 71°31'6"W and extends northwest at approximately 310° for approximately 650 feet.

**RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

DIVISION OF MARINE FISHERIES



**Rhode Island Saltwater Recreational
Fishing License Program**

Annual Report

Fiscal Year 2018

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I. Purpose of Report

Pursuant to R.I. Gen. Laws § 20-2.2-10, the purpose of this report is to provide an annual overview of the Rhode Island Recreational Saltwater License Program (program), including the total amount of license fee revenue received, a brief review of the status of state-based recreational fishing assessments, expenditures made during the prior year from the license fee account, and set forth a programmatic budget for the following fiscal year. In accordance therewith, the Department of Environmental Management (DEM) must submit the report to the Rhode Island Marine Fisheries Council (Council), and conduct one or more public meetings to solicit input from recreational fishermen and the general public. The Council is then tasked with providing its opinion as to whether the program is meeting its intended purpose, and to offer any recommendations for modifying the program. The report and addendum are then to be submitted to the Rhode Island General Assembly. The report is also slated to include any additional, relevant information relating to the administration and enforcement of the licensing program, and the status of state-based recreational fishing assessments and stock assessments.

II. RI Saltwater Recreational Fishing License Program

Background

The State of Rhode Island enacted legislation in January 2010 establishing the Recreational Saltwater License Program for Rhode Island. This legislation was shaped and supported by a Recreational Marine License Study Group, which was co-chaired by DEM and the R.I. Saltwater Anglers' Association (RISAA), and included representatives from a variety of recreational fishing groups and interests from Rhode Island. The Department's Division of Marine Fisheries (Division) then developed regulations, which were adopted in April 2010. The program has two primary purposes:

- Provide a state-based alternative to federal saltwater angler registry requirements, which are administered by the National Marine Fisheries Service (NMFS) pursuant to the 2006 Amendments to the federal Magnuson-Stevens Fishery Conservation Act (section 401(g)) (hereinafter referred to as the "Magnuson Act Amendments").
- Provide a source of state funding for programs and activities that benefit marine recreational fishing interests in Rhode Island.

The Magnuson Act Amendments mandate the establishment of a national registry program for all saltwater anglers for use in conducting more accurate marine recreational fisheries statistical surveys. These surveys serve as the backbone of marine fisheries management programs for the recreational fishing sector. In December 2008, NMFS promulgated the final rule creating the registry, and also established an option for states to develop their own state-based licensing programs as an alternative, provided that the state programs meet federal criteria. The new federal registry requirements also pertain to for-hire vessels, requiring that they either register federally or be subject to state-based licensing. Pursuant to a R.I. Gen. Laws § 20-2-27.1, RI requires for-hire vessels (charter

and party boats carrying recreational fishermen) to obtain a RI party and charter boat license.

In the summer of 2010, the Division submitted the new RI recreational saltwater fishing license program, and the existing RI party and charter boat license program, to NMFS for review. On October 25, 2010, NMFS and the Division entered into a Memorandum of Understanding (MOU), pursuant to which the Division agreed to regularly collect and transmit to NMFS the contact information generated by the two programs.

In 2010, a federal registration was available at no cost. Beginning in 2011 however, NMFS enacted a \$15 annual fee for the federal registration. The annual cost has since increased to \$29.

On the basis of the NMFS review and approval of the RI license programs, and the commitments set forth in the MOU, the State of Rhode Island was officially designated as an exempted state for all anglers, spear fishers, and for-hire fishing vessels on November 8, 2010, enabling the RI recreational saltwater fishing license program and the RI party and charter boat license program to serve as a valid, legal substitutes for the federal registry.

As established by the statute, anyone wishing to recreationally fish or spearfish in the marine waters of RI must possess either a RI state fishing license, a state fishing license from a reciprocal state, or a federal registration. The requirement solely pertains to those harvesting, or attempting to harvest, finfish for non-commercial purposes. In 2012, the RI regulations were amended to include squid as well. Exemptions are provided for the following categories:

- Children under 16,
- Anglers fishing on licensed party or charter boats,
- RI residents who are blind or permanently disabled, and
- RI residents who are on leave from active military duty.
- RI residents over the age of 65, and active military personnel stationed in RI, are eligible to obtain RI state licenses at no cost.

The RI license fees -- \$7/year for residents (under age 65), \$10/year for non-residents, and \$5 for a 7-day license – are designed to both cover the administrative costs of the license program and provide additional support to programs and activities that serve the needs and interests of saltwater recreational fishermen in Rhode Island.

Status of the Program

Because the federal registration did not have a fee during 2010, it was difficult to assess the metrics of the RI program during its inaugural year. Since 2011, the program has equilibrated, providing more predictable participation and revenue rates. The average number of licenses issued between 2011 - 2015 was approximately 42,000 per year, generating average revenues of about \$270,000 gross and \$180,000 net. For the last two years (2016 and 2017) this figure has risen to approximately 47,000 licenses issued per

year generating average revenues of about \$300,000 gross and \$200,000 net. All net license fee revenues, those not retained by the program vendor, are deposited into a restricted receipt account.

Benefits

The overarching benefits of recreational license programs are their potential for improving recreational fishing management by:

- Allowing flexibility in the administration of the recreational license program to suit the needs of Rhode Island.
- Improving the quality and accuracy of marine recreational fishing data; and
- Providing an improved means for quantifying the scope of recreational saltwater fishing and spearfishing in Rhode Island, and throughout the U.S.

A key benefit of having the State of Rhode Island administer its own license program is the opportunity to make the license available at a lower cost than a federal registration. The \$7 (resident) and \$10 (non-resident) fees for the RI license compare favorably to the \$29 fee for the federal registration. Moreover, RI does not require state residents over the age of 65, or any active military personnel stationed in RI, to pay a fee for a license. RI offers a 7-day license at a reduced rate of \$5, available to both residents and nonresidents.

An additional benefit of having RI administer its own program is that the State program offers certain exemptions that are not available under the federal program – namely, exemptions for RI residents who are blind or permanently disabled, and RI residents who are on leave from active military duty.

Another benefit of having a RI state program is reciprocity with neighboring states and federal waters. Pursuant to Rhode Island's licensing statute, Rhode Island will extend reciprocity to any other state that offers reciprocity to Rhode Island. Any resident from a reciprocal state who is licensed by that state can fish in RI waters without having to obtain a RI license, provided that a RI resident with a RI license can fish in the waters of the reciprocal state without having to obtain a license from that state. The states currently covered by a reciprocity agreement with Rhode Island are: New York, Connecticut, Massachusetts, and Maine.

A portion of each Rhode Island license sold, \$2 for every license sold online, and \$3 for every license sold via a vendor, is used to cover the costs of administering the licensing program. An additional charge of \$2 per license is assessed if a non-resident buys a license at a brick and mortar vendor. This money goes directly to the vendors who administer the program, and are not revenues received by the state. In this way, the program covers its own costs and is self-sustaining.

The balance of the revenues derived from license sales are deposited into a restricted receipt account, which is managed by the Department and subject to the exclusive-use restrictions set forth by statute. Monies from the account may only be used for: managing Rhode Island's marine recreational fisheries, with particular reference to

improving State-based recreational fishery catch and effort statistics and stock assessments; and enhancing recreational fishing opportunities in the State. The availability of this dedicated revenue source for use in supporting programs and activities that address the priority interests of RI's recreational fishing community is a major benefit associated with the RI license program. Of particular value is the opportunity to use the state funds to leverage federal funds.

The US Fish and Wildlife Service's (USFWS) Sport Fish Restoration Program provides federal funding for saltwater recreational fishing programs. The funding is administered via grants to the State; projects written into these grants require a 25% state match. The fees generated by the RI saltwater license program are used to leverage an additional \$3 for every \$1 dedicated to projects and activities that enhance recreational saltwater fishing access, as well as science and management programs that relate directly to recreational fish stocks. It is the policy of the Division to only fund Saltwater Fishing License Fee projects which have been matched with USFWS grants unless absolutely necessary.

Implementation

Internet Based System & Local Vendors: R.I. Gen. Laws § 20-2.2-7 authorizes and directs DEM to engage the contractual services of a state-approved vendor to develop and implement a web-based system that serves as a portal to obtain licenses. The system developed by the vendor is used directly by recreational fishermen and by authorized licensing agents.

During the initial program development stage, DEM entered into a formal agreement with Rhode Island Interactive (RII), a company which administers the Rhode Island state government web portal, known as RI.gov. Pursuant to the agreement, RII is responsible for developing and implementing the internet-based licensing system. RII followed through by developing and implementing a system that serves as the mechanism for issuing licenses, and for collecting all of the required contact information at the point of sale for the national registry.

The internet-based system is used by authorized vendors to provide a point of sale alternative for anglers and spear fishers to acquire a license. These vendors include bait and tackle shops, marinas and big box stores. To date, there are twenty-five (25) authorized vendors. RII is responsible for handling the business arrangements with each vendor, including billing, remittance and technical support. Vendors must pay an annual fee of \$75 to RII to cover these service costs.

To cover the overall costs of administering the web-based license program, RII retains \$2 for each license sold via the internet. If a license is sold by a vendor, RII retains \$1 and the vendor retains \$2. Neither RII nor the vendors receive any compensation for no-fee licenses issued to RI residents over the age of 65 or active military personnel stationed in RI.

RII provides all angler contact information (name, address, phone number, date of birth – and if provided, email address) to the Division monthly via electronic transfer. The confidentiality of the data is protected via the use of encryption. The Division, in turn, provides the encrypted data to the NMFS MRIP program for incorporation into the national registry.

Information & Outreach: Since the rollout of the Rhode Island Saltwater Recreational Fishing License, the Division has continued to provide information and outreach to the Rhode Island angling community. The primary vehicle is the webpage, www.saltwater.ri.gov, which provides direct access to the licensing portal. The page includes a detailed FAQ section, covering all aspects of the license program, a link to all authorized license vendors, links to recreational fishing regulations, the locations of all public boat ramps that provide access to marine waters in Rhode Island, and other information pertinent to recreational saltwater fishing.

Since 2013, the Division has contracted with a publishing company to create a recreational fishing guide for distribution throughout the state. The guide provides information on a variety of recreational-fishing-related issues, including current recreational fishing regulations, information on local fishing and boating access sites, and commonly caught species. It also provides information on the license program. The guide has emerged as a popular, widely circulated annual publication that serves to both promote recreational saltwater fishing in RI and inform the angling community on saltwater license revenue supported programs and regulations.

The Division continues to issue periodic press releases regarding the license program and produce fact sheets, informational cards and brochures for dissemination at public events, such as the RISAA annual New England Saltwater Fishing Show. The Division continues to man a booth at the show to answer questions about recreational fishing, and to support issuing licenses in a convenient forum for the community. The show offers an ideal opportunity to interact directly with the recreational fishing community. Per the suggestion of our recreational saltwater license study group, the Division will provide more frequent updates to the RISAA and other interested parties on projects funded by recreational license funds. For example, the Division will report any boat ramp repairs or construction updates to RISAA to disseminate to their members. Another valuable suggestion generated by the group was to communicate any maintenance/infrastructure via press releases. The group feels that it is important to increase public awareness of how the recreational saltwater license funds are being spent. Tangible results increase the positive perception of the program. To that end the Division will also highlight these projects in its annual magazine. The group also suggested more communication between the Division and the angling public to direct where access point maintenance is needed.

To help increase awareness regarding the license program in the field, the Division also continues to maintain weatherproof vinyl signs at fishing access points throughout RI. The signs feature an illustration of the license and clear text informing the public that the license is required and how it can be acquired. RI also continues to provide informational signs to vendors to advertise the availability of licenses at their places of business.

For the FY2017 funding cycle the Division started funding an annual youth fishing camp administered by the RISAA with oversight from the Division. The camp was a success enrolling 51 children for three days all centered around fishing. The popularity of the camp has prompted the Division and RISAA to continue the camp in FY2018, at Rocky Point. RISAA is a very active, large recreational fishing organization based in the state of Rhode Island. An overview of the association can be found on their website: www.risaa.org. The state funding used to match the federal USFWS sportfish grant was derived almost entirely from credits derived from the donated time spent by the RISAA volunteers. The grant the volunteer time was matched to was the USFWS RI Aquatic Education grant. Future camps will continue to leverage volunteer hours to match federal funding. In the event that source of match comes up short, recreational saltwater license revue will be used to match the shortfall.

Free Fishing Day: In accordance with the statutory allowance for one free fishing day a year, during which all license requirements are waived, the DEM Director continues to declare a free fishing day each summer. Since 2010, the free fishing day has coincided with Governor's Bay Day.

Licenses Issued, Revenues Received: Fiscal Years 2011-2018

Tables 1-3 summarize licenses issued and revenue generated since the inception of the license program. For the purposes of this report gross revenue is the total amount of fees paid to DEM for the saltwater recreational license. Net revenue is the balance of fees deposited into the restricted account after the administrative costs are paid to the internet portal contractor and other brick and mortar vendors. License numbers and revenues increased after FY11, as expected, as the federal registry switched from being a free alternative to a costly alternative. In the seven years since FY11, license issued have increased to approximately 50,000 per year, generating an average gross revenue of about \$330,000, and average net revenue of about \$234,000. Despite the increases, the number of licenses sold and revenue generated fall well short of initial predictions from 2010, resulting in a much more constrained budget then originally envisioned. FY18 continued the upward trend of FY17 with increased license sales above the recent average. During FY18 50,944 licenses were issued resulting in \$330,444 in gross revenue and \$233,934 in net revenue. This is a bigger than expected jump in sales from FY17 which are likely a result of a stronger economy and the rollout of a new web portal to purchase fishing and hunting licenses.

Table 1. RI Saltwater Recreational Fishing Licenses – Number Issued: FY11 through FY18

License Type	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18
Resident Full Year	18,658	26,556	25,864	25,938	26,084	29,335	28,605	31,576
Non-Resident Full Year	5,249	7,649	6,975	7,432	7,381	8,428	8,378	8,762
Resident 7-Day	60	122	107	144	134	159	158	167
Non-Resident 7 Day	1,310	2,505	2,730	2,958	3,055	3,141	3,221	3,436
Resident Over 65	3,635	4,613	4,653	4,667	4,704	5,078	5,613	5,879
Active Military Stationed in RI	703	993	996	1,055	992	1,006	971	975
Totals:	29,615	42,438	41,325	42,194	42,350	47,147	46,946	50,795

Table 2. RI Saltwater Recreational Fishing Licenses -- Gross Revenue: FY11 through FY18

License Type	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18
Resident Full Year	\$130,606	\$185,892	\$181,048	\$181,566	\$182,588	\$205,345	\$200,235	\$221,032
Non-Resident Full Year	\$52,490	\$76,490	\$69,750	\$74,320	\$73,810	\$84,280	\$83,780	\$90,938
Resident 7-Day	\$300	\$610	\$535	\$720	\$670	\$795	\$790	\$835
Non-Resident 7 Day	\$6,550	\$12,525	\$13,650	\$14,790	\$15,275	\$15,705	\$16,105	\$17,639
Resident Over 65	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Active Military Stationed in RI	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Totals:	\$189,946	\$275,517	\$264,983	\$271,396	\$272,343	\$306,125	\$300,910	\$330,444

Table 3. RI Saltwater Recreational Fishing Licenses -- Net Revenue: FY11 through FY18

License Type	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18
Resident Full Year	\$88,462	\$124,413	\$120,880	\$120,736	\$121,175	\$136,810	\$133,772	\$155,040
Non-Resident Full Year	\$40,702	\$58,566	\$53,340	\$56,970	\$56,682	\$64,923	\$64,664	\$68,952
Resident 7-Day	\$174	\$352	\$304	\$411	\$382	\$453	\$430	\$477
Non-Resident 7 Day	\$3,605	\$6,528	\$6,988	\$7,794	\$8,085	\$8,445	\$8,765	\$9,465
Resident Over 65	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Active Military Stationed in RI	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Totals:	\$132,943	\$189,859	\$181,512	\$185,911	\$186,324	\$210,631	\$207,631	\$233,934

III. Status of State-Based Fishing Assessments

Rhode Island's recreational catch and effort data is collected via the Marine Recreational Information Program (MRIP). MRIP is designed to improve recreational data collection by using the data generated from license sales to create a national recreational angler registry and by employing new angler survey protocols. This registry of licensees is a known sampling frame that can be drawn upon to conduct more focused surveys. Addresses taken from the registry are used to assess fishing effort, i.e., the number of anglers and the number of trips they make in Rhode Island. Catch data is collected by intercept interviews with anglers at fishing access sites. This catch data is used to calculate the number, species, and size of the fish being caught by recreational anglers in Rhode Island. Data from the two independent surveys is combined to produce regional and coast wide estimates of recreational harvest. Results are reported in two-month periods called waves. This data is collected during the months of March through December; no recreational data is collected in Rhode Island during wave 1 (January - February) due to low fishing activity.

The portion of MRIP that collects recreational fishing effort data is currently being collected by the Fishing Effort Survey (FES) a mail based system which has replaced the Coastal Household Telephone Survey (CHTS). A benchmarking period during which data collection was conducted with both methodologies and was successful. The data collected during benchmarking period was used to calculate a conversion factor used to relate effort data collected in the past with the CHTS to the new effort data collected by the FES.

The FES methodology uses information provided by anglers when purchasing a Rhode Island Saltwater Recreational Fishing License as the sample frame for the surveys. The data is provided to MRIP to create a registry of anglers whose addresses are randomly drawn from to receive a mail survey concerning fishing effort. The new system has proven to be a better estimator of fishing activity than the CHTS, one outcome of which is higher angler effort statistics. The improved accuracy of the FES has provided a better understanding of the number of anglers and trips taking place and has shown that more anglers were making fishing trips than previously thought using CHTS data. The increased effort combined with the existing catch rates has highlighted that previous catch and harvest estimates were much lower than previously thought. Comparisons of catch and harvest estimates using the two methods are available on the MRIP website. At this point the report with the detailed FES statistics is not available until April 2019. When the report is made available those statistics will be added to the report.

The second portion MRIP focuses on the collection of recreational catch statistics. As of 2016, the Division is responsible for conduct of the Access Point Angler Interview Survey (APAIS). Prior to that, the Division had a contract with the federally approved contractor, to perform the APAIS. APAIS is the portion of MRIP which captures the recreational catch data. The accuracy of the data collected via angler intercepts has been improving over the past three years, due to the new approaches employed under MRIP. The number of attempted interviews is increasing, as is the spatial and temporal distribution of the interviews. A more comprehensive sampling frame of potential

sampling locations with accompanying site pressures is being used to better distribute the interviews. Better statistical sample distribution is expected to continue to increase the accuracy of the estimates. Additionally, interviews are now being conducted at night and at increasing rates during the winter months. Intercept refusal rates have remained level, despite the change to the Division conducting the APAIS. The Division is working hard to improve this aspect of the processes and engaged stakeholders at local club events to foster buy in to the APAIS. This face to face approach has been well received and will continue into the future. The Division has also reached out to NOAA Fisheries for outreach materials and strategies which should have positive results.

To further add to the above-described improvements, the Division is increasing the number of sample draws across all months using revenues from Rhode Island Saltwater Recreational Fishing License matched 3:1 with USFWS federal grant money. The funds are being used to hire four additional seasonal employees during the summer months to perform these additional interview shifts. The Division plans to continue this practice into the foreseeable future. This state-specific increase in sample numbers has increased the accuracy and precision of recreational catch and effort data for RI.

As mentioned above, APAIS has transitioned from contractor-based administration to state-based administration. The transition occurred in 2016. The data collected from APAIS is displayed in table 4a, 4b, 4c and 5. Recreational Saltwater License funds were not used to make this transition; it was a federally funded initiative. Agreements have been forged between NOAA Fisheries and the Atlantic States Marine Fisheries Commission (ASMFC) outlining the duties and responsibilities the Division must accomplish to successfully transition and run the program. To accomplish this transition the Division hired a full time coordinator to administer the program. The funding for this position is provided annually by NOAA Fisheries. The MRIP coordinator will be responsible for maintaining and scheduling personnel who will conduct angler intercepts throughout RI. In addition to staffing duties, the coordinator will be responsible for QA/QC, validation, and disseminating of data collected to the Atlantic Coast Cooperative Statistics Survey (ACCSP). ACCSP is part of ASMFC and will be coordinating the collection of data from state partners for delivery to NOAA Fisheries.

The Division has hired a full time field interviewer to perform angler intercepts during waves 2 -6 throughout Rhode Island. NOAA Fisheries provides funding for one staff as well as for four seasonal employees each year. These employees travel to shore based sites and ride on board head boats to conduct angler interviews routinely as prescribed by APAIS. The full time employee also provides back office support to the MRIP coordinator. As mentioned above, Recreational Saltwater License funds will be used each year to increase the number of interviews beyond the base number funded by NOAA Fisheries. These additional interviews are accomplished by hiring additional seasonal employees during peak fishing waves. The funding for the three additional seasonal employees is provided by Rhode Island Recreational Saltwater License fees matched 3:1 with USFWS grant money. It is estimated that the four additional temporary samplers will accomplish the same number of additional samples (likely more) than were purchased directly from the contractor in the past. After one year of the new methodology it has been determined that two additional seasonal employees is an effective number to conduct the additional site assignments requested by the Division. By ordering additional

samples from NOAA Fisheries, the tiered nature of the sample draws can result in summer weekend days requiring six staff members to carry out all of the site assignments. Non weekend sample draws are less intensive and require fewer staff.

The Division intends to build on the recent improvements to the survey and anticipates better data collection and more accurate information going forward with the program. Table 5 compares 2016, 2017, and 2018 APAIS interview statistics. The results compare the first three years of RI State conduct of the survey. Notably the number of completed interviews has increased but refusal rates only slightly decreased. Staff will continue to develop strategies to reduce the number of refusals.

The higher number of completed interviews is a function of higher angler encounter rates. During the early sampling waves of 2016 the Division was still learning the nuances of conducting the survey. A key part of the process involved adjusting the site pressures used by NOAA Fisheries to make the random assignments directing where interviews take place. Rhode Island site pressures needed adjustment because they were not resulting in random draws that would direct field interviewers to popular fishing sites. The adjustments have been accomplished and their effectiveness is reflected in a higher number of completed interviews in 2017 and 2018 relative to 2016. Field interviewer production rates also contributed to more completed interviews in 2017 and 2018. Production rates increased from an average of 5.4 interviews/assignment in 2016 to 7.2 interviews/assignment in 2017 and then decreasing slightly to 6.57 in 2018. The increased field interviewer production rates are the result of the experience gained in our first year of the program and a more refined training regimen. It is anticipated to improve in 2019 as there are 4 field interviewers returning from 2018. These FIs have a year of training which should foster higher productivity.

Refusal rates remain level between 2016 and 2018. The Division will continue its outreach efforts to reduce this statistic. Most of the refusals occur in Party/Charter mode. Staff has been focused on obtaining interviews from all clients from any given charter boat trip to bring this number down with some good preliminary results. Since 2016, any angler that is not interviewed from a boat party from which at least one angler was interviewed is coded as an initial refusal, and the count of missed anglers only refer to anglers who were eligible but could not be interviewed because the interviewer was busy interviewing other anglers. This procedural change has increased the number of refusals in this mode. Last year the Division constructed a kiosk at the main charter boat dock in the state. The kiosk is meant to raise awareness to the survey and provide a central location from which our field interviewers may operate.

Table 4a. APAIS Interview Statistics from 2016 Assignments. (CH = Party/Charter, PR = Private/Rental Boat, SH = Shore, HB = Head Boat)

Year	Wave	Mode	Assignments	Completed	Initially Refused	Language Barrier	Missed Anglers	Productivity
2016	2	CH	18	0	0	0	0	0
2016	2	HB	6	103	53	2	0	17.17
2016	2	PR	18	3	7	0	1	0.17
2016	2	SH	18	10	3	1	7	0.56
2016	3	CH	28	94	343	24	11	3.36
2016	3	HB	13	161	101	20	0	12.38
2016	3	PR	43	89	89	7	25	2.07
2016	3	SH	31	52	16	15	29	1.68
2016	4	CH	30	168	573	22	80	5.6
2016	4	HB	18	308	313	54	0	17.11
2016	4	PR	63	225	168	40	111	3.57
2016	4	SH	42	156	103	74	69	3.71
2016	5	CH	28	146	327	27	53	5.21
2016	5	HB	12	168	65	32	0	14
2016	5	PR	43	274	137	23	62	6.37
2016	5	SH	29	77	28	19	28	2.66
2016	6	CH	10	29	33	0	0	2.9
2016	6	HB	5	45	16	34	0	9
2016	6	PR	30	17	10	0	1	0.57
2016	6	SH	25	20	2	7	3	0.8
2016			510	2145	2387	401	480	5.44

Table 4a. APAIS Interview Statistics from 2017 Assignments. (CH = Party/Charter, PR = Private/Rental Boat, SH = Shore, HB = Head Boat)

Year	Wave	Mode	Assignments	Completed	Initially Refused	Language Barrier	Missed Anglers	Productivity
2017	2	CH	11	0	0	0	0	0
2017	2	HB	4	59	5	3	0	14.75
2017	2	PR	14	27	2	5	5	1.93
2017	2	SH	14	38	8	0	8	2.71
2017	3	CH	38	164	260	2	29	4.32
2017	3	HB	12	192	130	43	0	16
2017	3	PR	52	229	90	24	40	4.4
2017	3	SH	35	174	99	59	77	4.97
2017	4	CH	34	596	422	18	250	17.53
2017	4	HB	17	319	218	32	0	18.76
2017	4	PR	69	609	235	67	251	8.83
2017	4	SH	52	384	136	100	128	7.38
2017	5	CH	37	279	306	1	105	7.54
2017	5	HB	11	118	50	5	0	10.73
2017	5	PR	58	335	126	10	103	5.78
2017	5	SH	39	169	36	21	59	4.33
2017	6	CH	10	20	28	0	8	2
2017	6	HB	6	56	36	10	0	9.33
2017	6	PR	29	46	24	4	8	1.59
2017	6	SH	18	27	6	12	21	1.5
2017			560	3841	2217	416	1092	7.22

Table 4c. APAIS Interview Statistics from 2018 Assignments. (CH = Party/Charter, PR = Private/Rental Boat, SH = Shore, HB = Head Boat)

Year	Wave	Mode	Assignments	Completed	Initially Refused	Language Barrier	Missed Anglers	Productivity
2018	2	CH	3	0	0	0	0	0
2018	2	HB	3	45	3	6	0	15
2018	2	PR	17	8	5	7	0	0.47
2018	2	SH	22	96	38	1	19	4.36
2018	3	CH	43	169	257	3	84	3.93
2018	3	HB	12	154	41	25	0	12.83
2018	3	PR	54	229	98	32	79	4.24
2018	3	SH	61	230	136	54	114	3.77
2018	4	CH	54	612	578	12	385	11.33
2018	4	HB	19	354	177	21	0	18.63
2018	4	PR	73	452	151	37	185	6.19
2018	4	SH	53	322	83	81	134	6.08
2018	5	CH	42	284	361	7	158	6.76
2018	5	HB	13	135	69	38	0	10.38
2018	5	PR	63	435	94	33	178	6.9
2018	5	SH	40	204	59	72	98	5.1
2018	6	CH	10	14	61	0	11	1.4
2018	6	HB	8	69	58	59	0	8.63
2018	6	PR	18	67	17	4	35	3.72
2018	6	SH	28	49	11	7	41	1.75
2018			636	3928	2297	499	1521	6.57

Table 5. Summary of APAIS interview Statistics from 2016 – 2018 assignments by wave.

Year	Wave	Completed	Refused	Missed	Percent Refused	Ratio Refused/Missed
2016	2	116	63	8	35.20%	7.88
2016	3	396	549	65	58.10%	8.45
2016	4	857	1157	260	57.45%	4.45
2016	5	665	557	143	45.58%	3.90
2016	6	111	61	4	35.47%	15.25
2016		2145	2387	480	53.00%	4.97
2017	2	124	15	13	10.79%	1.15
2017	3	759	579	146	43.27%	3.97
2017	4	1908	1011	629	34.64%	1.61
2017	5	901	518	267	36.50%	1.94
2017	6	149	94	37	38.68%	2.54
2017		3841	2217	1092	36.60%	2.03
2018	2	149	46	19	23.58%	2.42
2018	3	782	532	277	40.49%	1.92
2018	4	1740	989	704	36.24%	1.40
2018	5	1058	583	434	35.53%	1.43
2018	6	199	147	87	42.48%	1.69
2018		3928	2297	1521	36.90%	1.51

IV. Issues & Initiatives

Increasing the Number of Local Vendors

Although the internet remains the most convenient means for obtaining a license for most people, it is apparent that a portion of the population continues to prefer to obtain a license, in-person, at a local store or shop. Such individuals may either not have, or may not be comfortable using a home computer and printer. Additionally, some individuals may have the need to pay for their license using cash, instead of a debit or credit card, which is required for the online transaction. This precipitates the need to maintain and increase brick and mortar vendors in RI.

To date, there are twenty local vendors authorized to issue licenses at their places of business. This is up from just seven vendors at the start of the 2011 fishing season. The locations of the twenty-five vendors cover the major population areas of Rhode Island, including Block Island. Increasing the number of vendors should remain a top priority, since adding more vendors to the program will make it easier for more people to get their licenses, thereby enhancing compliance.

The Division applied for and was awarded a grant from the ASMFC to administer a vendor-incentive program. The program started in 2011. Pursuant to the program, the Division loans computers and printers to any establishment that agrees to vend licenses for a period of five years. The Division has enough funds to provide equipment for up to

50 vendors. This grant ended as of November of 2015. The Division has exhausted its supply of computers.

In 2018 DEM successfully rolled out a new outdoor recreational licensing system which will allow saltwater, freshwater, and hunting licenses to be purchased over the internet at once. By way of background, the saltwater and freshwater licenses were already available online, hunting licenses were still being issued via a paper system. The new system has both an online and agent module to allow both online and brick and mortar sales outlets. Combining all three licenses into one system has resulted in the saltwater license being available at more brick and mortar locations. Saltwater recreational fishing licenses are now sold at over 30 locations throughout the state including municipalities. This increased access to the fishing license and a substantial outreach campaign associated with the new system rollout likely helped increase license sales by ~8% in FY2018.

Developing Regulations for the License Program

In 2010 the Division developed and enacted comprehensive regulations for the recreational license program. The regulations largely codify the key statutory provisions governing the license program. The Division tracks recreational fishing issues and strives to keep pace with advances in technology as it pertains to fishing licenses and will amend regulations if needed to address current issues. At this time, the Division plans to pursue legislation to supplement the new combined online system to create a license that would cover saltwater, freshwater, and hunting licenses. This legislation would also address license fees and agent fees. It is not anticipated that saltwater license fees will increase, hunting license fees may need to be adjusted higher. Allowing for a combination purchase will enhance the customer service aspect of the licensing program, and is therefore an important initiative for the State.

Meeting with the Recreational Saltwater License Study Group

The Division plans to continue meeting annually with the Recreational Saltwater License Study Group. This ad-hoc group worked closely with the Division on the development of the original saltwater recreational license bill. The purpose of these annual meetings is to review and get input on the status of the overall license program, as well as the draft budget for the saltwater license restricted receipt account. These meetings are in addition to, not in lieu of, the Council and public comment processes set forth by the license statute.

Allowing Volunteer Contributions to the Restricted Receipt Account

It has been suggested that some anglers and spear fishers would welcome the opportunity to make an additional, voluntary contribution to the restricted receipt account associated with the license program at the time they purchase their license. It is unclear whether this could be done without additional statutory authority, but if there is enough interest on the part of the Rhode Island recreational fishing community to pursue the initiative, it can be pursued further. Examples of voluntary methods for contribution include license plate

programs and donations on state tax forms. There are no proposals to develop additional means of acquiring voluntary contributions at this time.

Streamlining the Online License Renewal Process

The Division has continued to coordinate with RII in an effort to streamline the renewal process, namely, by having prior contact information recalled and re-inserted, with an onus on the licensee to verify that it is up-to-date and accurate. Phone numbers remain an important data field, the system still requires phone numbers to be re-entered every year, to help ensure that they are up-to-date and accurate. The future of MRIP's methods is still unclear but will likely shift to a mail based survey. This change will make the address of the applicant the key data element. It is unclear if the telephone number will become self-populated from previous license data after the switch is made to the mail survey, but for now it will still be a required data element of the RI program.

It should be noted that the new online system took ease of license renewal into its design specification's. A new unique identifying number will be assigned to each license holder that will directly link to an account in the system. The user accounts will maintain a history of past transactions and store all demographic information. These changes have reduced the amount of time any given user spends renewing their recreational saltwater fishing license.

Compliance

As mentioned above, the number of licenses issued for the past three years has remained static at approximately 42,000 until 2016. During the 2018 fiscal cycle, this number increased to 50,000 licenses. Increases were seen in both the resident and non-resident demographic. Although it is too soon to predict whether these sales numbers will be sustained, it is a positive sign that general awareness to the licensing program has increased. It is speculated that the presence of APAIS field interviewers dressed in Division uniforms was also a factor in raising awareness of the program or perception that an angler's license may be checked more frequently. The Division is vested in providing outreach and education to the public, this positive sign is encouraging and fosters a belief that the outreach funds are well spent.

It is important to know how closely the number of licenses tracks the actual number of anglers in order to assess the effectiveness of the saltwater license program. DEM's Division of Law Enforcement (DLE) conducts field checks of the recreational license to ensure compliance with the saltwater license requirement with good results. These field checks are essential to the success of the program, the officer's invest numerous patrol hours checking for compliance and are the DEM's hands on ambassadors. On average approximately 1,200 license checks take place annually. These results have yielded an approximate 90% compliance rate with the Saltwater Recreational License program. DLE states that this is similar to rates seen by other regional law enforcement agencies. While 90% is a good compliance rate it still remains necessary to promote a high level of awareness of the saltwater license program to keep noncompliance in check, to facilitate

good quality data collection, and continue to foster the gains in sales from FY2018 in to the future.

The Division will continue working to increase compliance as well as prevent license sales from eroding. Several ideas provided by the Saltwater Recreational License advisory group will be pursued to this end. The Division collects email addresses from license applicants; these email addresses will be used in the future to send an electronic reminder to renew their licenses annually. The Division executed these email reminders in 2017 and 2018. The new online recreational licensing system will allow the Division to continue this functionally for all three types of recreational licenses types.

It is generally accepted that the frequent recreational angler is aware of the recreational license requirement; a lack of compliance likely exists in the casual angling population. To address this compliance gap the Division expanded its distribution of its saltwater fishing magazine to more diverse locations such as popular tourist hotels and attractions.

V. Expenditures and Budget

Preface

The goal of the saltwater recreational fishing license is to promote healthy and diverse recreational fisheries which are easily accessible by the fishing public. By providing funds to promote better data collection and stock assessment, the license leads to better management programs which should ensure sustainable fishing in to the future. Robust fishing opportunities coupled with modern, well thought out, and convenient fishing access is ultimately the best strategy to increase awareness of the license to ensure that all Rhode Islanders are participating in the program equally. To this end the saltwater recreational license program will continue to direct funding towards recreational fishing programs that work towards completing our goal.

As noted previously, in accordance with the provisions of the R.I. Gen. Laws Chapter 20-2.2, all funds from the saltwater license fees are deposited into a restricted receipt account that can only be used for the purposes list below.

- Administering and enforcing the Rhode Island license program;
- Managing Rhode Island's marine recreational fisheries, with particular reference to improving state-based recreational fishery catch and effort statistics and stock assessments; and
- Enhancing recreational fishing opportunities in the State.

It is important to note that this account does not need to be spent down every year. License revenue that is not spent remains in the account and is available for projects the following year and into the future. If designated funds are not spent in any given category they are kept in that category for the next budget cycle.

The Division undertakes a range of programs that address and support recreational fishing interests in Rhode Island. These programs are largely funded via a federal grant administered by the US Fish & Wildlife Service's Sport Fish Restoration (SFR) Program. The SFR Program is derived from excise taxes on fishing and boating equipment, and is structured as a user-pay/user-benefit program. The SFR program is the primary source of funding for recreational fishing programs in RI, providing some \$2 million annually. SFR grants require a 25 percent non-federal match.

The primary DEM programs pertaining to recreational fishing fall into the following general categories:

- Fish stock assessments
- Recreational catch and effort estimates
- Management programs and regulations
- Boating and fishing access
- Artificial reefs and habitat protection/enhancement
- Public information, outreach, and education
- Enforcement

In developing annual budgets for the recreational saltwater license account, DEM draws upon the following guidelines: projects must be consistent with the licensing statute; address the needs and interests of the recreational fishing community in Rhode Island; and maximize opportunities and benefits by leveraging federal SFR funds whenever possible.

FY18 Expenditures

During the 2018 fiscal year, a total of \$109,267 was spent on the Rhode Island Marine Recreational Fishing Program (Table 6). This amount is down from the \$214,858 expended in FY2017. Of that total:

- \$14,129 was used to hire two additional seasonal field interviewers to accomplish additional MRIP intercept interviews.
- \$86,105 was used for personnel and equipment costs in support of the Division's finfish surveys for stock assessments.
- \$277 was used for the management of the Marine Recreational Fisheries Program.
- \$720 was used to support the Division's boating/fishing access site maintenance program. Maintenance was performed at marine shore fishing access sites including mowing, brush removal, tree limbs and downed trees removal. Litter and trash is removed weekly, or biweekly as needed. Fishing line recycle boxes under our oversight are emptied of fishing line. Snow was plowed in some saltwater access areas. Location and regulation signs were inspected monthly at each fishing site and repaired or replaced as needed. Specifically:
 - Camp Cronin – grade and repair parking area, installed signs and trash removal;

- Arranged placement of portable sanitary facilities at Quonochontaug, Galilee, Deep Hole, Sakonnet, Black Point salt water fishing access areas from April through October;
 - Weekapaug fishing access-grade road and parking area, signage, trash and install new location sign. Removed trash following volunteer cleanup;
 - Charlestown Breachway-periodically checked area and removed trash from boat ramp area;
 - Quonochontaug- repair and grade road and parking area, repair top of ramp, signs replaced, trash removal, cut back road side, remove and dispose of discarded boat trailer;
 - Seapowet- relocate kiosk to new parking lot and install new signage;
 - Deep Hole fishing area- signage, repair snow fence, grade parking lot and road;
 - Kings Beach Fishing access- delivered gravel;
 - Black Point-replaced regulation signs.
 - Posted signs for no parking and trailers only at boat ramps throughout state.
 - Removed trash from portajons at Cronin, Deep Hole, Weekapaug and Quonochontaug.
 - Assist with deceased mammal removal as needed at marine fishing areas.
 - Assist with mixing oyster clutch for restoration projects and developing staging area.
 - Supervised and provided oversight at annual float removal and winter storage of docks at Mt Hope, Haines Park, Galilee and Fort Adams boat ramps with contract vendor- Steel Giraffe. Assisted with the spring installation.
 - Colt Park-checked periodically and removed trash, contracted dock services;
 - Goddard Park-contracted dock services and removed debris from ramp area;
 - Narrow River Ramp- graded parking area and installed new regulation signs;
 - Pawcatuck River Boat Ramp, Westerly- removed debris and trash reported by enforcement and made repairs to dock bumpers. Continued to monitor ramp damage;
 - Sakonnet Point boat ramp-replaced signs;
 - Galilee Boat Ramp-repair parking lot, contracted dock services, checked periodically and replaced signs;
 - Ft. Adams - transported gravel for fill and contracted dock services;
 - Gull Cove-picked up trash from citizen cleanup and signage.
- \$8,036 was used for public education, information, and outreach, including production of the fifth annual Rhode Island Recreational Saltwater Fishing Guide, the one page laminated fishing abstract, and other outreach materials.

Table 6. FY2018 Recreational Saltwater License Program budget.

Category	FY17 Carryover	FY18 Revenue	FY18 Available	FY18 Expended
Enhanced MRIP Data Collection	\$78,703	\$11,696.70	\$90,400	\$14,129
Boating/Fishing Access I	\$67,865	\$46,786.80	\$114,652	\$0
Boating/Fishing Access II	\$37,927	\$11,696.70	\$49,624	\$720
Rec Fisheries Support	\$21,813	\$11,696.70	\$33,510	\$277
Fish Stock Assessment Support	\$32,221	\$116,967.00	\$149,188	\$86,105
Artificial Reef	\$0	\$11,696.70	\$11,697	\$0
Public Education, Information, and Outreach	\$23,459	\$23,393.40	\$46,852	\$8,036
TOTAL	\$229,767	\$233,934.00	\$495,922	\$109,267

FY19 Budget

The budget for FY19 is described in Table 7. It is anticipated that the restricted receipt account will receive another \$200,000 from FY19 license sales, and the proposed FY19 Programmatic Budget, as set forth below, is based on that amount. The revenue will be allocated into each of the budget categories based on projected short and long term spending.

Table 7. FY2019 Recreational Saltwater License Program budget.

Category	FY18 Carryover	FY19 Revenue	FY 19 Available	FY19 Budgeted
Enhanced MRIP Data Collection	\$76,271	\$0	\$76,271	(\$15,000)
Boating/Fishing Access I	\$114,652	\$40,000	\$154,652	(\$150,000)
Boating/Fishing Access II	\$48,904	\$0	\$48,904	(\$10,000)
Rec Fisheries Support	\$33,510	\$10,000	\$43,233	(\$10,000)
Fish Stock Assessment Support	\$63,083	\$120,000	\$183,083	(\$150,000)
Artificial Reef	\$11,697	\$20,000	\$31,697	(\$10,000)
Public Education, Information, and Outreach	\$38,816	\$20,000	\$58,816	(\$10,000)
TOTAL	\$386,655	\$200,000	\$586,655	(\$365,000)

- **Enhanced MRIP Data Collection (\$15,000)**

Proposal: Continue to expand the recreational catch and effort data collection program for Rhode Island (under the MRIP sampling umbrella) by providing funding for add-on intercept surveys to increase the overall precision of the overall catch estimates and better enable mode-specific (e.g., shore-based) estimates.

Rationale: The MRIP program is the major source for marine recreational catch and effort fishing assessments. Data collected via the program is used to estimate catch (landings and discards) and effort by species/state/mode/wave. Estimates of catch and effort are used to develop status of the stock for all species, including striped bass, summer flounder, scup, tautog, bluefish, winter flounder, cod, black sea bass, and weakfish. In addition, indices of abundance using catch per unit of effort are incorporated into age-structured models to track abundance in comparison to other fisheries independent surveys. Estimates of catch and effort can have high variability in part due to sampling levels. These sampling levels are directly correlated to the level of funding allocated for each survey.

The marine recreational catch and effort fishing assessments yield fishery dependent information which, coupled with the fishery independent trawl and seine surveys, serve as the basis for marine recreational fishing regulations. The accuracy and fairness of recreational fishing regulations is directly related to the quality and precision of the assessments. Better accuracy and precision will lead to a better understanding of fishing activities by mode. This information is paramount if the Division is to pursue mode splits such as differential regulations for shore-based fishermen versus boat-based fishermen. Mode specific regulations require adequate survey and sampling of the two modes to enable relatively precise estimates of respective catch and effort.

The proposed enhanced data collection initiative will continue to attempt to maintain sampling to prior levels (2002-2005). The \$15,000 investment will leverage an additional \$45,000 in federal (SFR) funds to provide \$60,000 in total programmatic benefits. The \$60,000 will allow the Division to hire three additional seasonal field interviewers to staff additional samples ordered from NOAA Fisheries. The addition of these three staff members plus the full time coordinator, one full time field interviewer, and four seasonal field interviewers funded via NOAA Fisheries base MRIP grant bring the total number of staff working on the APAIS to nine. The Division has a contract with the ASMFC to provide staffing support for these employees. The \$15,000 figure was derived from personnel costs incurred in 2018.

- **Boating/Fishing Access I (\$75,000)**

Proposal: Major renovations at Quonochontaug boat ramp.

Rationale: The next fishing access projects to be funded with recreational saltwater license funds will be the ramp located at the Quonochontaug fishing area. This boat ramp is heavily used during the summer and fall. During the winter of 2017 the ramp sustained significant erosional damage and needs repair. The damage is such that the existing ramp will need to be completely replaced and regraded. Originally the project was to have been complete in spring of 2019 but it has been delayed by a year. The funding provided by the Saltwater Recreational Fishing License and USFWS SFR will begin once the construction has started at the site. Using \$150,000 in licensing to leverage \$450,000 in SFR funds frees up \$600,000 to be used on this project, expediting the public access program as a whole.

- **Boating/Fishing Access II (\$10,000)**

Proposal: Continue to support the Division's boating/fishing access site maintenance program.

Rationale: The Division is responsible for maintaining 60 state-owned and operated boating/ fishing access sites used by an estimated 28,000 boats that are less than 24 feet in length. In order to foster compliance and repeat participation in the saltwater recreational license program, it is as important to keep our public access points clean and functional as it is to build new ones. The Division lacks adequate resources to undertake all of the work that's needed to maintain these sites on a regular basis. The allocation of these funds from the license fee account, leveraged with federal funds, supports the Division's ability to properly maintain state-owned boating/fishing access sites throughout Rhode Island. The \$10,000 investment will leverage an additional \$30,000 in federal (SFR) funds to provide \$40,000 in total programmatic benefits. This amount was estimated based on past years costs. It should be noted that last year there was some confusion with the accounts charged to accomplish the maintenance work at the access sites. A new funding source was secured to accomplish some of the work done by the RIDEM development crew. The original plan was to draw from both grant where appropriate. Due to overlap in work scope far less than anticipated was drawn from this grant in FY18. This will be addressed in FY19 such that this account is drawn from as in the past and work expanded if possible.

- **Recreational Fisheries Management Support (\$10,000)**

Proposal: Continue to provide staff time, equivalent to a full-time employee (FTE), for the Division's Recreational Marine Fisheries Program. Staff will coordinate a range of projects and activities that relate directly to priority marine recreational fishing issues.

Rationale: In the past, the Division has never had staff time completely dedicated to marine recreational fishing programs. The \$10,000 investment will leverage an additional \$30,000 in federal (SFR) funds to provide \$40,000 for staff support. The Division requires staff dedicated to RI's marine recreational fisheries program and proposes maintaining an FTE equivalent to focus on the following issues:

- Coordinating the overall license program, in concert with Rhode Island Interactive and local vendors; and serving as the conduit for data management between the program and NOAA Fisheries, pursuant to the Division's MOU with NOAA Fisheries.
 - Coordinating recreational fishing assessments; continued coordination of RIDFW APAIS; serving on the ACCSP's Recreational Technical Committee; advancing Rhode Island's electronic reporting program.
 - Coordinating the development of marine recreational fishing management programs in Rhode Island; applying recreational fishing assessments to recreational management programs; developing mode-specific recreational fishing management programs and other recreational fishing alternatives for important ASMFC-managed species.
 - Serving as a principal point of contact for recreational fishing groups and organizations throughout Rhode Island.
 - Assisting with the coordination of the Division's boating/fishing access program – including assessment, maintenance, and management of existing sites; pursuing grants to upgrade/improve existing sites and develop new sites; and conveying information on access opportunities to the Rhode Island recreational fishing community.
- **Fish Stock Assessment Support (\$150,000)**

Proposal: Support the continuation of finfish stock assessment surveys of recreationally important species in Rhode Island waters.

Rationale: The key programs funded via the federal SFR grant are the continuation of the Narragansett Bay trawl survey; the juvenile finfish seine survey conducted in the coastal ponds, and the newly developed fish pot survey. These projects are important annual finfish fisheries surveys in Rhode Island waters with long standing time series of data. In the past, these programs have been funded by the Division's federal SFR grant, and matched entirely with commercial fishing license fee revenues. Given the importance of these programs to the recreational fishing community, it stands to reason that a portion of the recreational fishing license fees should continue to cover the non-federal match requirements of the SFR grant pertaining to these projects. Project reports are submitted annually for these programs to USFWS and are available upon request. The \$100,000 investment will leverage an additional \$300,000 in federal (SFR) funds to provide \$400,000 in total programmatic benefits. The amount allocated for this category is being increased in anticipation of providing partial funds to

purchase a new research vessel which will be used as the platform for the RIDMF black sea bass pot survey, being built in 2019.

- **Artificial Reef Support (\$20,000)**

Proposal: The Division is exploring the installation of small scale artificial reefs adjacent to state fishing pier at locations throughout the state. The Division anticipates artificial reef work to begin in 2019 and will set aside \$20,000 in this budget category in anticipation of projects in 2020.

Rationale: The Division is currently working on a fish habitat enhancement project with support from The Nature Conservancy and the USFWS SFR program. The project is in the early stages of a major investigation of fish habitat quality in upper Narragansett Bay over the next two years. This information will be used to develop plans for habitat improvement opportunities as well as evaluate the most effective methodologies. A variety of habitat enhancement and restoration techniques are being considered, including “reef balls”. The reef balls are small low relief concrete domes with various holes to provide shelter for small fish. The Division is planning to place an array of these reef balls at the Sabin Point and Rocky Point fishing pier under construction. Once complete the Division will evaluate other locations for deployment.

- **Public Education, Information, and Outreach (\$10,000)**

Proposal: To continue the annual one-page water resistant regulation abstract and the Rhode Island Recreational Saltwater Fishing Magazine, fund a youth fishing camp conducted by the Rhode Island Saltwater Angler’s Association, and purchase new field interviewer uniforms.

Rationale: Although compliance with the new license program has generally been good, it is clear that a number of recreational fishermen and spear fishers remain unaware of the program, not only in terms of the need to obtain a license, but also with regard to the purpose of the program and the benefits it provides to the recreational fishing community. Since the primary purpose of the license program is to develop a comprehensive database of contact information for all recreational fishermen and spear fishers, it makes sense to continue making a modest investment in public outreach, aimed at increasing awareness among the recreational fishing community regarding the license program, particularly during the summer season, thereby enhancing compliance and bolstering programmatic support.

Each year the Division publishes a one page regulation abstract which contains the current year’s recreational fishing rules and regulations. These are printed on glossy water resistant paper and supplied to various locations throughout the state. The abstracts are heavily utilized and raise awareness and foster compliance to the current regulations.

In 2018, the Division published the sixth annual edition of the Rhode Island Recreational Saltwater Fishing Magazine. The publication, done in a colorful and appealing magazine style, offers a wealth of information of interest to the marine recreational fishing community in the State. The guide informs fishermen on the issues associated with the licensing program and the associated benefits. It also provides recreational fishing information as well as other issues of interest to the community, including current regulations, informative articles, and lists of local bait and tackle shops and party/charter boat services. While the Division continues to provide information to the Rhode Island recreational fishing community via the Division's website and an annual abstract that features recreational and commercial fishing regulations, the magazine enhances the Division's ability to connect with and inform recreational fishermen, and to promote recreational fishing in Rhode Island. The publication has been well-received, and so it makes sense to continue utilizing a small portion of funds from the license account to fund it annually.

During both 2016, 2017, and 2018 the Division participated in the Rhode Island Saltwater Anglers Association's (RISSA) youth fishing camp. Prior to 2016 there were no dedicated Saltwater Fishing community based instructional programs in Rhode Island. During 2016, RISSA conducted a successful pilot youth fishing camp for 50 children between the ages of 7 and 14 on June 28-30. The camp didn't just focus on fishing techniques but additionally taught the attendees about fishing regulations, ecology and sustainable practices. Youth programs have been recognized as important to keeping vitality in the recreational fishing industry as well as developing a more informed and responsible fishing populace. (1) This educational program was a pilot program intended to show proof of concept, funding is required to keep it going into the future. The Division provided funding to RISAA in 2017 to keep the program going into future to fill this programmatic gap.

The 2017 camp began to be funded completely by the Division's Aquatic Education program via credits for volunteer hours spent by RISAA member's and USFWS Sportfish Aquatic Education grant. The Division proposes to continue to support and fund the camp into the future. While it is anticipated that volunteer hours will provide the match for the camp's federal funds, recreational saltwater license funds will be available to cover any shortfall.

A memorandum of understanding has been established with RISAA to conduct the camp. The day camp will be run by RISAA with RIDEM participation and oversight. The camp will continue to accommodate 50 children between the ages of 7 and 14. The camp will be planned, coordinated, and implemented by a hired camp coordinator. The base location for the camp will be Rocky Point State Park, Warwick, RI. Part of the camp will involve children fishing on boats launched at local marinas for two of the camp days. These two days will require the use of a bus to transport children to and from Rocky Point State Park. Vessel captains will

be provided by RISAA. The camp will last for three days include but is not limited to the following activities:

- Classroom setting instruction of basic fish biology and identification, sustainable fishing methods and practices, fishing tackle, safety on and around the water, fishing regulations, and recreational data collection
- Hands on fish capture and identification using beach seines and dip nets
- Hands on knot tying and casting instruction
- Hands on fishing from shore
- Hands on fishing from boats

The proposed outreach budget would spend \$10,000 of Recreational Saltwater Fishing License funds to leverage additional \$30,000 in USFWS SFR funding resulting in \$40,000 used for outreach and education pertaining to the recreational fishing license.

VII. Looking Ahead to FY20

There is cautious optimism that the increased revenue generated in FY16 – FY18 from Saltwater Recreational Licenses will hold steady into the future, as such we are looking into other programs to enhance recreational fishing opportunities in Rhode Island. One such program, mentioned above, is to place artificial reefs adjacent to state fishing piers. Additionally as mentioned above, the Division is in the process of planning the design and purchase of a new research vessel. This vessel would be used to survey sportfish species and specifically be used to conduct the Black Sea Bass pot survey in 2020 (among other activities). It is anticipated that recreational saltwater license fees will be used to partially match the federal funding required for this purchase.

Rhode Island Marine Fisheries Council

2018 Annual Report



Approved by the Council on **DATE**

Submitted to the Governor and Rhode Island General Assembly on **DATE**

Prepared pursuant to R.I. Gen. Laws § 20-3-2

Introduction

In accordance with R.I. Gen Laws § 20-3-2(b), the Rhode Island Marine Fisheries Council (hereafter, RIMFC or Council) is charged with reporting annually, by March 1, to the Governor and the RI General Assembly for the preceding calendar year, with regard to: the advice it has given to state agencies, particularly the RI Department of Environmental Management (DEM), on marine fisheries issues; the response it has received to such advice; any findings or position it may have with regard to the status and/or condition of marine fisheries; and any recommendations it may have for maintaining, improving, or changing laws, regulations, or management programs for marine fisheries.

This is the Council's report for calendar year 2018.

Council Responsibility

The Council is established in accordance with R.I. Gen Laws § 20-3-1 to serve in an advisory capacity to the DEM Director and/or other state agencies on marine fisheries issues pertaining to the State of Rhode Island, particularly those involving the planning, management, and regulation of the State's marine fisheries.

In accordance with R.I. Gen Laws § 20-10-5(d), the Council is also responsible for the review of aquaculture lease applications submitted to the RI Coastal Resources Management Council (CRMC) for the purpose of formulating recommendations to the CRMC as to whether the aquaculture activities proposed in each application are consistent with competing uses engaged in the exploitation of the marine fisheries.

In accordance with R.I. Gen Laws § 20-2.1-10, the Council is also responsible for advising DEM concerning the development of annual plans for the allocation and use of the funds made available to the department from commercial fishing license fees, tags, permits, and vessel fees as provided in R.I. Gen Laws § 20-2-28.2.

In accordance with R.I. Gen Laws § 20-2.2-10, the Council is also responsible for reviewing DEM's annual report on the RI Saltwater Recreational Fishing License Program, and rendering its opinion as to whether the program is continuing to meet its intended purpose.

Council Membership

Council members are appointed by the RI Governor, and subject to advice and consent by the RI Senate. Members serve four-year terms, and are eligible for reappointment once. The DEM Director or his or her designee serves as the Council Chair.

Three members serve as representatives of the commercial fishing industry; three serve as representatives of the recreational fishing industry; and two members have skill, knowledge, and experience in the conservation and management of fisheries resources and/or marine biology.

In 2018, the Council consisted of the following membership:

- Robert Ballou, Assistant to the Director, DEM – Chair
- David Monti – Vice-Chair - sport fishing industry
- Jeff Grant - commercial fishing industry
- Christopher Rein - conservation and management of fisheries resources/marine biology
- Dr. Michael Rice - conservation and management of fisheries resources/marine biology
- Andrew Dangelo - sport fishing industry
- Travis Barao - sport fishing industry
- Michael Roderick - commercial fishing industry
- William Mackintosh III - commercial fishing industry. Mr. Mackintosh retired from the Council on June 26th after seven years of exemplary service to the Council and RI fishing community.
- Jason Jarvis - commercial fishing industry. Mr. Jarvis replaced Mr. Mackintosh on June 26th.

Council Meetings

In 2018, the Council met on six occasions: March 5, March 14, June 26, August 30, October 1, and December 3.

Additionally, the Council's Industry Advisory Committee met once, on August 21, and the Council's Shellfish Advisory Panel met on three occasions: February 7, May 9, and September 5.

The minutes for all of the above-referenced meetings can be found on the Sec. of State website at <https://opengov.sos.ri.gov/OpenMeetings>, are also posted on the Council's website at: <http://www.dem.ri.gov/programs/fish-wildlife/marine-fisheries/rimfc/index.php>

Council Advice – Regulatory Proposals

In 2018 the Council provided recommendations to DEM Director Coit on a total of thirty-five regulatory proposals brought forth by the Division of Marine Fisheries pertaining to:

- Recreational and Commercial Black sea bass
- Recreational and Commercial Scup
- Recreational and Commercial Striped bass
- Recreational and Commercial Summer flounder
- Recreational and Commercial Tautog
- Recreational and Commercial Bluefish
- Commercial Menhaden
- Commercial Skate
- New Warren River Shellfish Management Area to promote oyster restoration.
- Buoy's, buoy lines, and vessel color scheme requirements
- Definitions of terms

- Coastal sharks
- Commercial Cod
- New program and regulations for a Research Pilot Aggregate Program for the commercial harvest of Black sea bass and Summer flounder
- Mapping
- Commercial Licensing
- Shellfish Management Area winter harvest schedules

The Director concurred with the Council's recommendations on all matters, with minor changes related to commercial licensing, including:

- Reporting requirements related to notification to commercial license holders
- Required documentation of commercial fishing trips
- Deadline for the Department to issue new licenses annually.

The Director's decision memos are posted on the Council's website at:

<http://www.dem.ri.gov/programs/fish-wildlife/marine-fisheries/rimfc/dirdecsn.php>

Council Advice – Aquaculture Lease Proposals

The Council and/or the Council's Shellfish Advisory Panel provided recommendations to the CRMC on a total of seven aquaculture lease applications. In the opinion of the Council, all seven applications were found to be consistent with competing uses engaged in the exploitation of marine fisheries in the respective areas. Due to significant public concern raised regarding a proposed lease application in Potter Pond in South Kingstown (Perry Raso: CRMC file # 2017-11-086), a special meeting was held to afford the public with additional opportunity to voice their concerns.

Council Advice -- RI Saltwater Recreational Fishing License Program

At their meeting on March 14th, the Council reviewed the Annual Report for the RI Saltwater Recreational Fishing Program for Fiscal Year 2017, and found that the program is continuing to meet its intended purposes. The Report, which includes an Addendum addressing the Council's review, is posted on the DEM website at: <http://www.dem.ri.gov/programs/bnatres/fishwild/pdf/rlcrep17.pdf>.

Council Advice – Offshore windfarms

At a special meeting on August 30th, the Council heard presentations from Deepwater Wind and Vineyard Wind regarding proposed windfarm projects in RI sound. This meeting resulted in a letter of recommendation from the Council sent to the Executive Director of CRMC and DEM Director to lessen the negative impacts to RI commercial fishermen associated with the spacing of turbines.

Other Major Activities Undertaken by the Council

- Reviewed a report prepared by the Division on a Bay-wide Quahaug stock assessment update and Providence River water quality, in anticipation of possible opening by DEM's Division of Water Resources of a portion of the Providence River to shellfish harvest.
- Considered a possible action by the ASMFC/MAMFC regarding transiting from Block Island to the RI mainland with federally regulated species. The Council is regularly updated on all matters pertaining to federal legislation that could have significant implications to RI commercial fishermen
- Considered pending federal legislation proposing to amend the Magnuson-Stevens Act. Two members (D. Monti and T. Barao) attended a meeting in Washington D.C. in June to advocate for conservation and to offer input regarding the proposed legislation.

Draft



RHODE ISLAND

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

OFFICE OF THE DIRECTOR

235 Promenade Street, Room 425
Providence, Rhode Island 02908

To: Jason McNamee
Chief, Marine Resource Management

From: Janet Coit
Director

Date: February 12, 2019

Re: Final Decisions Pertaining to November 19, 2018 Marine Fisheries Public Hearing Items

I have received and reviewed your memo to me, dated December 10, 2018, as well as the Addendum to that memo, dated January 30, 2019 and attached herewith, regarding the public hearing items from the November 19, 2018 public hearing. I have also received and reviewed all relevant supporting documentation, including the November 19, 2018 public hearing documents and summary of public comments, as well as the summary report (draft meeting minutes) from the December 3, 2018 meeting of the RI Marine Fisheries Council (RIMFC).

I hereby approve all the recommendations, as set forth in your memo, which are all consistent with those provided by the RIMFC at the Council's December 3, 2018 meeting. The specific regulatory items, and the final decisions for each, are as follows:

1. Commercial Black Sea Bass (hearing item 1a)

- Decision: Status quo, with the understanding that the issues set forth in the petition submitted during the public comment period will be noticed and subject to subsequent consideration.

2. Commercial Scup (hearing item 1b)

Management Program

- Decision: Status quo

Scup Pot Limit

- Decision: Adoption of the amended provision, which increases the limit from 50 pots to 150 pots.

3. **Commercial Summer Flounder** (hearing item 1c)

- Decision: Status quo, with the understanding that the matter will be reconsidered at the March 11, 2019 hearing.

4. **Recreational Tautog** (hearing item 1d)

- Decision: Status quo

5. **Commercial Tautog** (hearing item 1e)

Management Program

- Decision: Adoption of the amended provision, which removes the Summer sub-period and evenly splits the 20 percent allocation that had been assigned to that period into the Spring and Fall sub-periods.

Tagging Program

- Decision: Adoption of the new provisions, which establish a new tagging program, to take effect on January 1, 2010. I concur with your proposal to run a voluntary trial of this program in 2019, and to use the results to determine whether any programmatic changes should be considered in advance of the January 2020 effective date.



RHODE ISLAND

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

DIVISION OF MARINE FISHERIES

Three Fort Wetherill Road
Jamestown, Rhode Island 02835

INTER-OFFICE MEMO

TO: Janet Coit, Director

FROM: Jason McNamee, Chief

DATE: December 10, 2018

SUBJECT: Decisions regarding proposed amendments to the RI Marine Fisheries regulations that were the subject of a public hearing conducted on November 19th and RI Marine Fisheries Council (RIMFC) meeting on December 3rd. The public hearing folder contains all the necessary documentation related to this hearing, including a summary of the oral comments made at the hearing, written comments received, the noticed annotated regulations, and public notice.

1. **Hearing item 1a. – 2019 Commercial Black Sea Bass Management:**

- **Background:** Annual review of management program and solicitation of proposals from industry. As things stand now with the federal and ASMFC process, status quo is expected for 2019 (rather than an originally proposed reduction). An operational assessment is scheduled for mid-summer 2019; whether this information may impact 2019 management is unknown.
- **Proposal:** Two options were noticed:
 - **Option 1:** Status quo.
 - **Option 2:** Industry proposal to amend the starting possession limit from 50 to 25 lbs/day in the month of July.
- **Public comments:** Several comments received in support of both options, with predominant support for option 1.
- **RIMFC:** 8 - 0 in support of option 1 as proposed. Also, the Council let stand its prior recommendation to not drop the possession limit below 50 lbs/day at any point during the season. Additionally, the Council recommended that the issues set forth in the petition submitted during the public comment period – to better align the black sea bass and summer flounder fisheries relative to open/closed days, and to avoid overlap between the Massachusetts and RI seasons -- be noticed and subject to subsequent consideration. This motion passed 6 – 2.
- **Marine Fisheries:** The Division supports the Council's recommendation, while noting that both options are manageable by the Division. Reducing possession limits from 50 to 25 lbs/day (for both black sea bass and summer flounder), rather than closing the fishery to harvest, has been the subject of ongoing discussion and

disagreement for several years, with some in the community preferring the longer season and others contending that 25 lbs/day is not economically viable. The Division defers to the Council and its recommendation on this matter – i.e., to not drop below 50 lbs/day. With regard to the new issues set forth in the petition submitted during the public comment period, the Division supports the Council’s recommendation to consider those issues via subsequent notice and hearing, which will be scheduled for early in 2019.

- Timing to file: N/A (no changes proposed).

2. **Hearing item 1b. – 2019 Commercial Scup Management:**

- **Proposal #1 – Management Program:**

- Background: Annual review of management program and solicitation of proposals from industry. Scup will also undergo an operational assessment in 2019, however, little attention has been given to scup as stock status is good, possession limits are high, and the market value for this species remains relatively low.
- Proposal: No amendments proposed.
- Public comments: No comments received.
- RIMFC: 8 - 0 in support of status quo.
- Marine Fisheries: Support for status quo.
- Timing to file: N/A (no changes proposed).

- **Proposal #2 - Amend Scup Pot Limit:**

- Background: Industry proposal to remove the 50-pot limit as overly restrictive and unnecessary.
- Proposal: Two options were noticed:
 - Option 1: Industry proposal to remove the pot limit.
 - Option 2: Division proposal to increase the pot limit from 50 to 300.
- Public comments: Two comments were received, one in support of removing the pot limit; and one opposed to removing it.
- RIMFC: The Council deliberated over the potential impact of an increased pot limit, i.e., the increase in pots set that could result if the limit were removed versus the likelihood of that happening given the constrained nature of the commercial pot fishery. Based on that deliberation, the Council voted 8 - 0 to recommend increasing the pot limit to 150.
- Marine Fisheries: The Division supports the Council’s recommendation, while noting that all three options are considered viable and manageable by the Division. Due to good stock status and fishery performance, and as a fishery that primarily occurs inshore, the Division does not anticipate that any increase in the number of pots would significantly increase harvest rates or jeopardize the health of the fishery. There should be some consideration given to a potential increase in fixed gear and the potential for interactions with whales, but since the fishery is mainly an inshore fishery, the capacity to deploy more gear is likely limited by factors such as vessel size and cost of bait versus return for that investment. As such, the Division does not believe the risk is high. The Division will monitor the situation and adjust as needed.

- Timing to file: Immediately.

3. **Hearing item 1c. – 2019 Commercial Summer Flounder Management:**

- Background: Annual review of management program and solicitation of proposals from industry. An increase in quota is expected in 2019 per the outcome of the recent benchmark assessment, however the magnitude of the increase is uncertain due to several factors. At the time of the hearing, the information available indicated a potential increase of $\approx 15\%$ in 2019.
- Proposal: Two options were noticed:
 - Option 1: Status quo.
 - Option 2: Re-open on Sundays during the Summer sub-period.
- Public comments: Majority of comments received in support of opening the additional day, as proposed via option 2; however, concern was expressed regarding the potential for an early closure.
- RIMFC: 6 – 2 in support of option 2 *only* if a 15% or greater increase in quota is realized; otherwise support of option 1 (status quo). Also, the Council let stand its prior recommendation to not drop the possession limit below 50 lbs/day at any point during the season.
- Marine Fisheries*: The Division supports the Council's recommendation, while noting that both options are manageable by the Division.
- Timing to file: Immediately.

* See attached addendum to this memo

4. **Hearing item 1d. – 2019 Recreational Tautog Management:**

- Background: Annual review of management program and solicitation of proposals from industry. Amendment 1 to the ASMFC's Fisheries Management Plan (FMP) for tautog was finalized in 2018, and RI's current recreational plan meets the requirements of the Amendment.
- Proposal: No amendments proposed.
- Public comments: No comments received.
- RIMFC: 8 - 0 in support of maintaining status quo.
- Marine Fisheries: Support for status quo. Additional note: Subsequent to the hearing and Council meeting, the Division discovered an error in the regulations pertaining to the fall possession limits for the party and charter sector. This error will be addressed via an upcoming notice and hearing.
- Timing to file: N/A (no changes proposed).

5. **Hearing item 1e. – 2019 Commercial Tautog Management:**

- **Proposal #1 – Management Program:**
 - Background: Annual review of management program and solicitation of proposals from industry. Amendment 1 to the ASMFC's FMP for tautog was finalized in 2018, and other than the new tagging program addressed below, RI's current commercial plan meets the requirements of the Amendment.
 - Proposal: Two options were noticed.

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- Option 1: Status quo.
- Option 2: Industry proposal to remove the summer sub-period and divide its 20% allocation into the spring and fall sub-periods.
- Public comments: Support for both options.
- RIMFC: 5 - 3 in support of option 2.
- Marine Fisheries*: The Division supports the Council's recommendation, while noting that both options are manageable by the Division. As a caveat, the Council's recommendation needs to be reviewed with the ASMFC to be sure that the proposed change (new closed period) maintains compliance with the FMP. In response to concerns raised at the Council meeting about the potential biological impacts of raising catch rates prior to the spawning season, the Division believes that such a modest increase in mortality during the spring sub-period will not affect stock status. The RI commercial fishery, a relatively small component of overall harvest, is managed by quota, with good accountability for removals.
- Timing to file: Immediately.

* See attached addendum to this memo

- **Proposal #2 - Fish Tagging Program:**

- Background: Amendment 1 to the ASMFC's FMP for tautog includes a new fish tagging program. The program is aimed at preventing illegal sales of live tautog. RI must adopt this program to maintain compliance with the FMP.
- Proposal: New regulations to implement this new commercial tagging program.
- Public comments: Three comments were received, all opposed to the proposal.
- RIMFC: 8 – 0 in support of the new program, as proposed.
- Marine Fisheries: The Division supports the Council's recommendation, noting that the program must be enacted to remain compliant with the ASMFC's FMP. The Division recognizes that implementation of this program may be difficult since the tagging is required by fishermen rather than dealers, resulting in the need to track a large number of participants. Pursuant to the FMP, implementation of the program is not required until 2020. Given concerns raised at hearing and the Council meeting regarding the difficulty of tagging live tautog, the Division plans to implement a voluntary, trial program in 2019 to gather information on tagging methods. With that information in hand, the program may be subject to additional regulatory review in November 2019, prior to its implementation in January 2020.
- Timing to file: Immediately.



RHODE ISLAND

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

DIVISION OF MARINE FISHERIES

Three Fort Wetherill Road
Jamestown, Rhode Island 02835

INTER-OFFICE MEMO

TO: Janet Coit, Director

FROM: Jason McNamee, Chief

DATE: January 30, 2019

SUBJECT: Addendum to December 10, 2018 memo regarding November 19, 2018 public hearing items

Commercial Summer Flounder

As noted in the December 10 memo, the Council's recommendation to re-open the commercial summer flounder fishery on Sundays during the Summer sub-period hinged on the expectation that RI's 2019 quota will increase by approximately 15 percent. Since then, due to the federal shutdown, the release of the new benchmark stock assessment for summer flounder, and any associated change in federal specifications for 2019, have been delayed. Thus, at this time, the Division recommends no changes to the commercial summer flounder management program. The Division expects the assessment and specifications to be considered by the ASMFC and Mid-Atlantic Council in early March. Accordingly, the Division plans to bring this matter back to hearing on March 11, 2019, which should provide sufficient time to effectuate any amendments before the Summer sub-period begins on May 1.

Commercial Tautog

As noted in the December 10 memo, the Division needed to consult with the ASMFC regarding the proposed change in sub-periods. Since then, the Division has received confirmation from ASMFC that the proposed change to remove the summer sub-period and divide its 20% allocation into the spring and fall sub-periods (option 2) maintains compliance with the ASMFC's FMP for tautog and can therefore be enacted.