



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
DIVISION OF FISH & WILDLIFE / MARINE FISHERIES
Three Fort Wetherill Road
Jamestown, Rhode Island 02835



PUBLIC NOTICE CONCERNING PROPOSED REGULATORY CHANGES

Pursuant to the provisions of Chapters 42-17.1 and 20-3 of the General Laws of Rhode Island as amended, and in accordance with the Administrative Procedures Act Chapter 42-35 of the General Laws, the Director of the Department of Environmental Management (DEM) proposes amendments to the **Rhode Island Marine Fisheries Regulations (RIMFR)** and gives notice of intent to hold a workshop and public hearing to afford interested parties the opportunity for public comment.

The following regulatory items will be presented for public comment:

1. Proposed amendments to **RIMFR-Finfish** regarding the following:
 - a. **Recreational Summer Flounder;**
 - b. **Recreational Tautog;**
 - c. **Commercial Tautog;**
 - d. **Recreational Scup;**
 - e. **Recreational Black Sea Bass;**
 - f. **Commercial Coastal Sharks;**
 - g. **Skate;**
 - h. **General editing.**
2. Proposed amendments to **RIMFR-Striped Bass**, regarding the following:
 - a. **Recreational Striped Bass;**
 - b. **Commercial Striped Bass general category;**
 - c. **Commercial Striped Bass floating fish trap;**
 - d. **Commercial striped bass tags;**
 - e. **Striped bass fin clipping provision** (in conjunction with hearing item # 3b.)
3. Proposed amendments **RIMFR-Fish/Shellfish Dealer Regulations**, regarding the following:
 - a. **General editing** for improved clarity and readability of the regulations;
 - b. **Striped bass fin clipping provision.**
4. Proposed **REPEAL** of **RIMFR Part 1 – Legislative Findings** (in conjunction with hearing item # 5);
5. Proposed **ADOPTION** of **RIMFR Part 1 – Definitions** (in conjunction with hearing item # 4);

6. Proposed **REPEAL** of **RIMFR Part 17 – Maps**.

The **WORKSHOP** will be held at **6:00PM** on **Tuesday, February 9th** at the University of Rhode Island, Graduate School of Oceanography, Coastal Institute Building, Hazard Rooms, South Ferry Road, Narragansett, RI 02882.

The **PUBLIC HEARING** will be held at **6:00PM** on **Tuesday, February 16th** at the University of Rhode Island, Graduate School of Oceanography, Coastal Institute Building, Hazard Rooms, South Ferry Road, Narragansett, RI 02882.

The rooms are accessible to the disabled. Interpreter services for the deaf and hard of hearing will be provided if such services are requested at least three (3) business days prior to the hearing by contacting the RI Commission on the Deaf and Hard of Hearing at (401) 222-5300; or (401) 222-5301 (TTY); or <http://www.cdhh.ri.gov/>.

The Department has determined that small businesses may be adversely impacted by the proposed regulations. Small businesses which are either currently licensed, or in the future may seek a license to harvest, buy, sell, or produce seafood products, as well as the small businesses that provide services related to those engaged in such industries, are requested to comment on the proposed regulations on how such proposed action can be changed to minimize the impact on those small businesses affected.

Written comments concerning the proposed regulations may be submitted to Peter Duhamel, Division of Fish and Wildlife – Marine Fisheries office, 3 Fort Wetherill Road, Jamestown, RI 02835 no later than 12:00 Noon on February 16, 2016. A copy of the proposed regulations will be available for review from January 15 through February 16, 2016 at the Marine Fisheries offices, or by mail. A copy of the proposed regulation(s) has been filed with the Office of the Secretary of State’s website at <http://sos.ri.gov/ProposedRules/>. Proposed annotated regulations are also available on the DEM Marine Fisheries webpage at <http://www.dem.ri.gov/programs/bnatres/fishwild/pn021615.htm>.

Jason McNamee,
Chief



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

BUREAU OF NATURAL RESOURCES
FISH AND WILDLIFE
&
LAW ENFORCEMENT



**RHODE ISLAND MARINE FISHERIES
REGULATIONS**

**Part XII
Striped Bass**

~~March 17, 2015~~

Proposed/annotated regulations

Public hearing
February 16, 2016

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

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PURPOSE

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

AUTHORITY

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

APPLICATION

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

DEFINITIONS

See Rhode Island Marine ~~Statutes and~~ Regulations, Part I - ~~4.3~~ Definitions.

SEVERABILITY

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

SUPERSEDED RULES AND REGULATIONS

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

REGULATIONS

PUBLIC HEARING ITEM 2a. **RECREATIONAL STRIPED BASS**

Option 1: Status Quo

12.1 Recreational:

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

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

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

(A) Possession limit compliance aboard vessels:

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

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

~~12.2 Possession limit changes: Any modifications made to the possession limit as set forth in these regulations will be promulgated in the RI Marine Fisheries regulations (RIMFR) Part III.~~

PUBLIC HEARING ITEM 2b.
STRIPED BASS - COMMERCIAL GENERAL CATEGORY

Option 1: Status Quo

12.~~32~~ Commercial – General Category:

12.~~32~~.1 Minimum size: Thirty four (34) inches or greater in total length, whether caught within the jurisdiction of this state or otherwise.

12.~~32~~.2 Seasons, allocations, and possession limits: During a single calendar year, the general category Striped bass fishery shall be allowed to harvest not more than sixty-one percent (61%) of the annual Rhode Island commercial quota.

(A) January 1 – June 7: Closed annually.

(B) June 8 – August 31:

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

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

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

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

(C) September 8 – December 31:

- (1) Allocation: Thirty percent (30%) of the general category quota will be available in this sub-period.
- (2) Possession limit: Five (5) fish per person per calendar day, or if fishing from a vessel, five (5) fish per vessel per calendar day.
- (3) The fishery will be closed in each calendar week from 12:00 AM Friday until 11:59 PM Saturday during this sub period. There will be no commercial possession or sale of Striped bass on these days for general category commercial fishermen.
- (4) The sub-period will close when 30% of the general category quota is projected to be harvested.
- (5) If DFW determines that the quota will be exceeded or will not be met before the end of the fall season, DFW may adjust that catch rate accordingly on or after September 15 annually.

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

PUBLIC HEARING ITEM 2c.
STRIPED BASS - COMMERCIAL FLOATING FISH TRAPS

Option 1: Status Quo

12.54 Commercial - Floating Fish Trap:

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

12.54.2 Allocation: During a single calendar year, the floating fish trap quota shall not be more than thirty-nine percent (39%) of the annual Rhode Island commercial quota.

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

12.54.4 Season: April 1 through December 31.

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

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

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

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

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

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

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

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

12.87 Hybrid Striped Bass Cultured Striped Bass:

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

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

MD = State of origin

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

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

12.87.4 The sale of this product shall be accompanied by a receipt showing: (a) the date of sale; (b) name, address, and permit number of the aquaculture facility; (c) numbers and species of Striped bass sold; (d) name of purchaser.

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

12.87.6 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.

PUBLIC HEARING ITEM 2d. **COMMERCIAL STRIPED BASS TAGS**

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

PUBLIC HEARING ITEM 2e. **STRIPED BASS FIN CLIPPING**

Option 1:

12.9 Fin clipping: Any striped bass harvested by a commercial license holder while fishing recreationally must have the entire right pectoral fin removed at the time of harvest.

Option 2:

12.9 Fin clipping: Any striped bass thirty-four inches (34") and greater harvested by a commercial license holder while fishing recreationally must have the entire right pectoral fin removed at the time of harvest.

Option 3:

12.9 Fin clipping: Any striped bass harvested by a commercial license and/or recreational license holder must have the entire right pectoral fin removed at the time of harvest.

Option 4:

12.9 Fin clipping: Any striped bass thirty-four inches (34") and greater harvested by a commercial license and/or recreational license holder must have the entire right pectoral fin removed at the time of harvest.

12.10 Violations for Non-compliance:

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

12.11 Penalties:

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

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

12.12 Appeals:

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

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

EFFECTIVE DATE

The foregoing rules and regulations "Rhode Island Marine Fisheries Regulations, Part XII - Striped Bass", after due notice, are hereby adopted and filed with the Secretary of State this 17th day of March, 2015 to become effective 20 days from filing, unless otherwise indicated, in accordance with the provisions of Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

Janet L. Coit
Director, Department of Environmental Management

Notice Given: ~~01/16/2015~~ 01/15/2016
Public Hearing: ~~02/16/2015~~ 02/16/2016
Filing date: ~~03/17/2015~~ XX/XX2016
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