STATE OF RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
DIVISION OF FISH AND WILDLIFE
MARINE FISHERIES SECTION

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 certain amendments to the Rhode Island Marine Fisheries Regulations and gives notice of intent to hold a public hearing to afford interested parties the opportunity for public comment.

Public comment will be solicited on the following proposals:

1) Finfish Sector Management Plan for 2014;
2) Shellfish Sector Management Plan for 2014;
3) Crustacean Sector Management Plan for 2014;
4) Amendments to the RI Marine Fisheries regulations, "Commercial and Recreational Saltwater Fishing Licensing Regulations";
5) Amendments to the RI Marine Fisheries regulations "Part XV - Lobsters, Other Crustaceans, and Horseshoe Crabs", regarding LCMA 6 language (section 15.20.3);
6) Amendments to the RI Marine Fisheries regulations "Part XV - Lobsters, Other Crustaceans, and Horseshoe Crabs", regarding the management of Horseshoe Crabs (section 15.24);
7) Amendments to the RI Marine Fisheries regulations "Part X - Equipment Restrictions", regarding trawling roller gear (section 10.12);
8) Amendments to the RI Marine Fisheries regulations "Part XIX – Fish/Shellfish Dealer Regulations", regarding non-indigenous Horseshoe Crabs (section 19.15);

The public hearing will commence at 6:00 PM on **Wednesday, September 18, 2013,** at the University of Rhode Island, Graduate School of Oceanography, Corless Auditorium, South Ferry Road, Narragansett, RI 02882. The room is accessible to the disabled. Interpreter services for the hearing impaired will be provided if such services are requested at least (3) business days prior to the hearing. Requests for such services may be made in writing or by calling TTY (711) or (401) 222-5300. A recording of the hearing will be made by DEM staff. Written comments concerning the regulations proposed for promulgation by the DEM may be submitted to the Division of Fish and Wildlife, 3 Fort Wetherill Road, Jamestown, RI 02835 **no later than 12:00 PM on September 18, 2013**.

The Department has determined that small businesses may be adversely impacted by some of the proposed regulations listed above. The public hearing is being conducted to solicit comment on the proposals and to allow public input from small businesses or any cities or towns, which may be adversely affected. Small businesses which are either currently licensed or in the future may seek permission to harvest, buy, sell, or produce seafood products as well as the small businesses that provide services related to those engaged in such industries and small businesses which buy, sell, or produce products or provide services related to fishing 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.

A copy of the proposed regulations will be available for examination from July 16, through August 15, 2013, by mail or at the offices of the Division of Fish and Wildlife located at 3 Fort Wetherill Road, Jamestown, RI 02835. Electronic copies of the proposed regulations will also be available on the DEM website at the following web address: http://www.dem.ri.gov/programs/bnatres/fishwild/pn081513.htm.

Janet L. Coit,
Director

Public Hearing Item #1: 2014 Sector Management Plan for the Finfish fishery.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Division of Fish and Wildlife
Marine Fisheries

2014 Sector Management Plan for the Finfish Fishery

Developed in association with the
commercial fishing licensing provisions set forth in the
"Commercial and Recreational Saltwater Fishing Licensing Regulations"

(for the September 18, 2013 Public Hearing)

~~**November 8, 2012**~~

These rules and regulations are promulgated pursuant to Chapter 42-17.1, Section 20-1-4, Section 20-2.1 and Public Laws Chapter 02-047, in accordance with Chapter 42-35 of the Rhode Island General Laws of 1956, as amended.

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STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

BUREAU OF NATURAL RESOURCES

FISH AND WILDLIFE &
LAW ENFORCEMENT

PURPOSE

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

AUTHORITY

These rules and regulations are promulgated pursuant to Chapter 42-17.1, Section 20-1-4, Section 20-2.1 and Public Laws Chapter 02-047, in accordance with Chapter 42-35 of the Rhode Island General Laws of 1956, as amended.

ADMINISTRATIVE FINDINGS

Rules and regulations are based upon the need to modify existing regulations (RIGL 20-3-2 through 20-3-6).

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, '1.3.

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 this regulation 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.

2014 Sector Management Plan for the Finfish Fishery

Introduction:

During the 2002 legislative session the General Assembly adopted the Commercial Fisheries Management Act, implementing a new commercial fishing license system and ending the moratorium on the issuance of new commercial fishing licenses that had been in place since 1995. One purpose of the act was to enable new entrants into commercial fisheries; however, provisions providing the authority to limit access were included. Fisheries identified for consideration of limited access are those "for which there is adequate or greater than adequate harvesting capacity currently in the fishery" and those that are managed under a state quota system. In accordance with Section 20–2.1-9(5) of the Commercial Fisheries Management Act, this management plan has been developed to identify fisheries that the Department of Environmental Management (hereafter, DEM) proposes to limit entry at current levels of effort and fisheries for which new licenses may be issued.

Regulations implemented by DEM in 2002 created two endorsement categories for finfish, restricted and non-restricted. The restricted category is reserved for species that DEM chooses to limit effort to multipurpose license holders and principal effort license holders with a restricted finfish endorsement while species in the non-restricted category are available to all participants including new participants issued a basic commercial fishing license with a non-restricted endorsement.

Since promulgation, six species were listed in the restricted category; striped bass, scup, summer flounder, black sea bass, winter flounder, and tautog. Two other species (menhaden and monkfish) have been considered for inclusion in this category, however restrictions were achieved through other methods including gear endorsements (menhaden) and management plan changes (monkfish). There were a total of 1,091 license holders eligible to harvest the restricted species in 2013. Six (6) new restricted finfish endorsements for principle effort fishing licenses were issued for the 2013 fishing season and 391 non-restricted finfish endorsements were issued for the 2013 fishing season (Table 1). The Division of Fish and Wildlife (RIDFW) proposes issuing new licenses to harvest species in the non-restricted category, which contains all other species not included in the restricted category. The RIDFW also recommends allowing restricted endorsements to be issued for the 2014 fishing season, as the new endorsements issued for 2013 did not impact the restricted species quotas negatively and 28 PEL and multipurpose licenses were not renewed in 2013.

This management plan will be updated on an annual basis and the list of restricted and non-restricted species will be evaluated with respect to stock status, quotas, current performance of the fishery, etc. A review of the number of restricted finfish licenses renewed will be conducted in consideration of exit-entry ratios needed to attain desired effort levels (i.e. those effort levels that can be maintained while keeping fisheries open with economically viable possession limits). Based on this information, DEM will propose for public hearing a new management plan each year.

RESTRICTED FINFISH

Summarized below are the stock status reports, management programs, and performance reports of species relegated to the restricted finfish category. All of these species are currently managed through a state quota system, with the exception of winter flounder. DEM's interest in limiting participation in the quota-managed fisheries is not based purely on concern for stock dynamics since quotas limit total landings within the State and since these species are migratory, Rhode Island landings account for only a portion of the total. The main concern is with allowing too much effort on the resource, which would impact current license holders through shorter seasons, lower possession limits, and ultimately fewer pounds of fish. The primary goal for quota-managed fisheries has been to keep seasons open as long as possible. At times this results in low possession limits that are not economically viable for the whole industry. Furthermore, shorter seasons resulting from increased effort would also lead to an increase in regulatory discards since fishing activity continues during closures due to the multi species nature of the fishing industry. Many quota-managed species when closed are captured as by-catch by industry targeting species that are open for harvest.

Several questions need to be addressed with regard to expansion of effort in these fisheries. First, have management goals been satisfied with the current conditions? The management goals, as previously mentioned, are full seasons with reasonable possession limits. Ideally, fisheries would remain open throughout the season with possession limits that are profitable for the industry and that diminish regulatory discards. With current levels of effort there is a minimum quota amount needed to attain these goals, which raises a second question. Have any of the quotas in recent years been adequate to meet these goals and what will future quotas most likely be? Finally, what would be the impact of increased effort?

SCUP

Stock Status: The scup stock is no longer considered overfished and overfishing is not occurring. Previously, the scup resource was defined as overfished when the three-year average of the spawning stock biomass (SSB) index, based on the Northeast Fisheries Science Center's (NEFSC) spring survey, was below the threshold biomass index. A new assessment was introduced and peer reviewed in 2008 that uses a forward projection modeling technique called ASAP (age structured assessment program). The update of this model indicated that the 2011 SSB level for the scup stock is 189,964 mt, well above the SSB target of 92,034 mt (Terceiro 2012a). SSB is projected to remain above the target as indicated in the most recent assessment update. The overfishing definition for the scup resource is defined as the fishing mortality (F) $F_{40\%} = F_{msy} = 0.177$. The most recent terminal year reference point from the stock assessment update for scup concluded that overfishing was not occurring with $F_{2011} = 0.034$ (Terceiro 2012a).

Management Program: DEM manages scup within state waters based on advice from the Rhode Island Marine Fisheries Council (RIMFC) and RIDFW. Regional management of the scup resource is the shared responsibility of the Mid-Atlantic Fishery Management Council (MAFMC) and Atlantic States Marine Fisheries Commission (ASMFC). The scup Fishery Management Plan (FMP) sets annual quota specifications into three sub-periods. During the two winter sub-periods, the quota is available coast wide and is restricted through the implementation

of trip limits. A state-by-state quota system is in place for the summer sub-period (May 1 – October 31), whereby quotas are distributed to the states based upon their percentage share of commercial landings for the period May through October 1983–1992. RI further divides the state quota into a general category allocation (40%) and a fish trap allocation (60%).

Performance of Fishery and Quotas: Efforts to keep the scup fishery open throughout the summer period in the past had proven to be difficult due to the number of licensees who have open access to the fishery (Tables 2a, b). Beginning in 2004 the fishery remained open for the entire season. In 2013 the quota for the general category was 2,059,673 pounds, an decrease of 383,556 pounds from 2012. The 2013 quota has been sufficient to keep the fishery open throughout all of the sub-periods under the current management plan as of the date of the writing of this document. In 2008, an aggregate program was implemented in state waters. The program performed well in 2012 and so far in 2013, remaining open for the entire period, though quota transfers were needed from the floating fish trap sector to keep the general category open due to extremely high catch rates.

The floating fish trap category was allocated 3,089,509 pounds in 2013. This sector has only harvested 11% of its quota so far in 2013. Through consultation with the floating fish trap operators, portions of the floating fish trap quota has been rolled in to the general category scup fishery throughout the sub periods to provide the opportunity for the entire commercial sector to harvest its scup allocation for 2013. As of the date of this report, 81% of the floating fish trap quota has been rolled in to the general category fishery.

The quota for 2014 has been approved by the ASMFC and MAFMC (Table 3). The quota will be less than the quota seen in 2013. Catch rates in 2013 were high as of the writing of this document, and the quota so far has been adequate to maintain an open fishery. The RIDFW recommends keeping effort at the current level in the commercial scup fishery during the summer state quota period to account for potential high catch rates in subsequent years which will work towards keeping an open fishery. One additional recommendation is to take scup out of the restricted species category during the winter sub periods where the quota is managed by the federal government. This would allow for scup to come in to the state from any license holder fishing during this federal period, but will not have adverse impacts to any state waters quota. Careful consideration of how species move between the restricted and non restricted categories needs to be taken. The suggested modification to scup during the federal management period however should not have any negative impacts but will allow this resource to be landed in RI without unneeded restrictions.

SUMMER FLOUNDER

Stock Status: In 2012, the stock assessment and biological reference points for the summer flounder stock were updated and reviewed (Terceiro 2012b). The new assessment results, using the ASAP modeling approach similar to scup, indicated that the summer flounder resource is not experiencing overfishing and is not overfished relative to the established biological reference points (NEFSC 2008a). The most recent stock assessment update continues to indicate no overfishing, not overfished, and in the latest update indicates that the stock was considered fully rebuilt in terminal year 2010 (NEFSC 2011b, Terceiro 2012b). The summer flounder stock is defined as overfished if the stock's SSB falls below the biomass (SSB) threshold, currently defined as $\frac{1}{2}SSB_{MSY}$ = 30,037 mt. The SSB for 2011 was estimated to be 57,020 mt, a decrease

from the 2010 estimate (SSB_{2010} = 74,119 mt). This is 5% below the $SSB_{target} = SSB_{35\%}$ = 60,074 mt. The overfishing definition for the summer flounder stock is defined as $F_{35\%} = F_{msy}$ = 0.31. The 2011 fishing mortality rate estimate (F_{2011} = 0.241) is below the fishing mortality reference point. Fishing mortality in 2011 may have been higher, as a retrospective analysis indicated that the current assessment method tends to underestimate *F* in recent years. This retrospective pattern, however, is reduced compared to the previous stock assessment that used a different assessment method. Updated stock status numbers for summer flounder are not available for this document as the summer flounder stock assessment is going in to a benchmark process in 2013 and new stock status determinations can no be made until the benchmark assessment passes the peer review process in August of 2013.

Management Program: The DEM manages summer flounder within state waters based on advice from the RIMFC and RIDFW. Regional management of the summer flounder resource is the shared responsibility of MAFMC and ASMFC. Existing DEM regulations provide a framework to manage the annual summer flounder quota allocated to RI through possession limits and seasons. The total commercial quota was allocated into three sub-periods based on the proportion of catches during the years 1980 through 1989. The original management plan in state waters had four sub periods. These percentages and sub-periods were altered in 2007 by combining the two summer sub-periods and combining the historical summer allocation, giving this period (May– October) a 35% allocation, leaving the winter 1 period allocation at 54% (January – April) and the winter 2 period allocation at 11% (November – December). Along with the combining of the summer sub periods, the management plan also included two closure days (Friday and Saturday) in an effort to curtail the weekly landings and extend the season. Another management change in 2007 was the inclusion of an aggregate landings program in the summer sub-period. The 2007 management plan as described above was maintained during 2008 through 2011, and in to 2012 with two significant changes. The 2012 fishing year saw the termination of a pilot program set up to test the use of “sectors” for summer flounder management in RI, and in addition, the Friday and Saturday closed days were reopened. The 2012 management plan was extended in to 2013.

The sector pilot program that had operated in the state was ended in 2012 so that a thorough analysis and vetting of the program could be undertaken. The information from the pilot programs was presented during a summer flounder symposium in early 2012. A second summer flounder workshop was then held in January of 2013 to continue the discussion on summer flounder management in RI.

In RI, management of the fishery for summer flounder has been difficult and the subject of frequent allocation disputes. Larger trawl vessels prosecute the winter commercial fishery offshore. During the summer, smaller trawl vessels, floating trap, gill net, and rod and reel fishermen direct their efforts on this species inshore, along with a substantial recreational fishery. Frequent possession limit reductions and closures are enacted by the RIDFW during each sub-period to keep RI landings within the quota allocated by MAFMC and ASMFC (Table 2a, b).

DEM implemented a Summer Flounder Exemption Program (SFEP) in 1995 to limit the number of vessels that could participate in the directed fishery, based upon their historical participation. At that time, a 200-pound limit was established for anyone who did not qualify for a SFEP. Due to the predicted increase in stock biomass in the near shore waters and the number of license

holders eligible to direct on the summer flounder fishery, the spring and summer sub-periods have been fully exhausted, even with low trip limits of 100 to 50 pounds.

Performance of Fishery and Quotas: Under current levels of effort, the summer flounder fishery has been frequently closed in recent history. The season most affected has been the summer because of the allocation available coupled with many participants. The proportion of summer flounder taken by different gear types during the summer months has changed over the past few years. The percentage harvested by otter trawl has declined each year during the period 1996 to 2000 while the proportion taken by all other gear types has increased with the greatest increase occurring for the rod and reel sector. As a result, the performance of the fishery has also changed over the years. In 2004, the RIMFC shifted the allocation by adding the additional quota of 469,653 pounds to summer I sub-period in order to maintain the fishery year around. This allocation succeeded in keeping the fishery open for the entire year. In 2005, rather than adding extra pounds to the first summer sub-period, an equal split of the summer allocation was implemented. It was thought that with the increase in quota in 2005, the fishery could remain open under this regime. The summer flounder quota remained open for the entire 2005 season. Due to several factors in 2006, including the complete utilization of the winter I quota and a decreased state quota allocation, the summer flounder summer fishery saw both a possession limit decrease and a fishery closure. This was also the case in 2007 and 2008 due to a large decrease in quota for these years, while effort remained high on this species. The moderate increase in quota for 2009 was not enough to prevent premature closures in the late summer and early fall time period. The 2010 fishing year remained open with a possession limit decrease. The 2011 fishing season remained open all year with no possession limit decreases (and in fact there were several possession limit increases through the summer and fall). During 2012 there also was no closure but a shorter possession limit decrease was enacted during the summer sub period. The 2013 fishing year has remained open with one downward modification to the possession limits to prevent an early closure. The summer has remained open to date, and is projected to be fully harvested without a closure.

The quota for 2014 has been approved by the ASMFC and MAFMC (Table 3). With careful management of the quota during the summer months including proactive possession limit adjustments, the 2014 quota may be able to sustain an open fishery all year with no weekly closed days or possession limit decreases, though the quota decrease makes the probability of the need for possession limit adjustments more likely. With projected decreased quotas in the next couple of years, maintaining an open fishery will become increasingly difficult, therefore fishers may need to look towards more progressive management regimes to remain open and profitable in coming years. RIDFW recommends maintaining effort at or below the current level in the commercial summer flounder fishery and to leave summer flounder in the restricted species category.

TAUTOG

Stock Status: The ASMFC Tautog Technical Committee completed the most recent coastwide assessment of tautog in 2011 (ASMFC 2011a). Results indicated that coastwide fishing mortality rates have increased since 2005. The stock was found to be experiencing overfishing in 2009 ($F_{average\ 2007\text{-}2009}$=0.38); indicating it was significantly above the target F rate (F_{Target} = 0.15,

recently adjusted via addendum VI). The assessment through 2005 indicated a slight increase in biomass and recruitment for recent years, however the biomass increases were not adequate to rebuild the stock in a reasonable time frame. There are also indications that a considerable proportion of the recent growth in the stock is from fish younger than spawning age. The main contributor to the fishing mortality rates appears to be recreational landings, which comprised approximately 75–90% of total landings over the past six years when viewed coastwide. Rhode Island is at the higher end of that range comprising approximately 90% of the landings coming from the recreational sector. An addendum was initiated in 2010 that decrease the fishing mortality target to F=0.15 in an effort to promote biomass increases at a faster rate, the addendum was approved in 2011. This addendum also required states to reduce harvest to meet this new F target.

A regional approach to tautog management was approved by the ASMFC in 2008, allowing MA and RI to assess the tautog stock in the two state's waters. Even though this regional assessment allowed for a status quo management scenario, MA and RI decided on a proactive approach and did implement reduction measures in 2008. Despite these reduction measures the tautog stock continues to be subject to high recreational landings specifically in Rhode Island in the fall months. The most recent regional stock assessment indicated a decrease in fishing mortality to $F_{2009} = 0.12$, below the new $F_{target} = 0.15$, thus overfishing is not currently occurring. Spawning stock has not responded in a significant way and remains below the SSB target of 8,750 mt with the 2009 estimate being $SSB_{2009} = 4{,}000$ mt, thus the stock is overfished. Commercial landings have not risen appreciably since plan implementation in RI due to the constraint of a quota. Indices of abundance based on the RIDFW trawl survey indicate a recent increase in abundance locally (Olszewski 2012). Abundance indices for young-of-year tautog, however, point to sporadic changes in abundance over the past several years, overall indicating a downward trend (McNamee 2012).

Management Program: The tautog resource is managed within state waters by the DEM with advice from the RIMFC and RIDFW. Regional management of the tautog resource is conducted by ASMFC through Addendum VI to the Tautog FMP, which was adopted in 2011. The FMP in part requires a reduction in fishing mortality in order to achieve an appreciable increase in spawning stock biomass. States were required to implement regulations that meet the required reductions by the start of their respective fisheries in 2012. The state commercial quota has not increased over the past few years. The commercial fishery in Rhode Island is managed through a combination of seasons, quotas, and possession limits. Although it is not specifically required by the FMP, Rhode Island established a commercial quota, which in part achieves the fishing mortality targets required by the FMP. In 2013, the commercial quota of 51,348 pounds was divided equally into three seasons with a daily possession limit of 10 fish.

Performance of Fishery and Quotas: Since the beginning of the tautog management plan in RI, the commercial tautog fishery has closed early with excessive overages in the spring season. A substantial increase in the quota would be needed to keep the commercial tautog fishery open throughout the defined seasons. This does not seem to be a realistic goal as the dynamics and size of this stock may never allow for a long open season with a large quota. Current fishing effort levels are clearly above the fishing power needed to harvest the quota with current possession limits and seasons. The spring quota remains difficult to manage due the imbalance of effort and allowable landings resulting in overages and high discard mortality, though with increased reporting accuracy and timeliness from RI seafood dealers, the spring sub period in

2012 and 2013 had only small overages relative to recent years. RIDFW recommends maintaining effort at or below the current level in the commercial tautog fishery and to leave tautog in the restricted species category.

STRIPED BASS

Stock Status: The most recent stock assessment of the Atlantic coast striped bass stock showed that the stock is not overfished and overfishing is not occurring (ASMFC 2011). This assessment included data through 2010 and used both a statistical catch-at-age (SCA) model, and a tag-based catch equation (CE) model to assess stock status. Female spawning stock biomass (SSB) was estimated by the SCA model to be at 50,548 mt, above the threshold and target, 30,000 mt and 37,500 mt respectively. Fishing mortality (F) was estimated on age 8-11 fish to be F=0.23, below the threshold and target levels, F=0.34 and F=0.30 respectively (ASMFC 2011).

Overall the assessment concluded that while stock abundance has declined since the 2004 high, SSB remains high due to the growth and maturation of the 2003 year class and accumulation of SSB from year classes prior to 1996 (ASMFC 2011).

Management Program: Striped bass are managed by ASMFC through Amendment 6 to the interstate FMP, which requires minimum sizes for the commercial and recreational fisheries, possession limits for the recreational fishery, and state quotas for the commercial fishery (ASMFC 2003). Addendum 1 to Amendment 6 was approved in November of 2007. In November of 2010 the Striped Bass Management board approved Addendum 2 to Amendment 6 which keeps the coast wide Striped Bass quota at status quo, 70% of historical harvest levels. Addendum 2 redefines the juvenile recruitment data triggers and calculation methods and requires management action if there is recruitment failure for three years in a row. Recently in August of 2012, Addendum III to Amendment 6 was approved by the Striped Bass management board to address the illegal harvest of Striped Bass. This addendum made commercial Striped Bass tagging programs for Atlantic coast states mandatory. Rhode Island already had an existing tagging program which met the minimum requirements of Addendum III.

Regulations for the commercial striped bass fishery in Rhode Island include minimum sizes, possession limits, gear restrictions, seasons and quotas. The RI commercial quota is divided between two sectors, floating traps (40%) and a general category (60%). The quota for the general category, primarily rod and reel, was made available during two seasons during 2012. The first season was allocated 75% of the quota and the second season was allocated the remaining 25% of the general category quota. The floating trap fishery operators worked in a collaborative manner to manage their allocation with just one season in 2012 and no possession limits, but with very stringent reporting requirements.

The management plan for the general category striped bass fishery was modified in 2007. The commercial possession limits changed to a per vessel limit of 5 fish (as opposed to the per person possession limits of the past). A two-day per week (Friday/Saturday) closure was also implemented in 2007. Both of these industry supported changes were an effort to keep the season open longer than what has been the case for the recent past. These changes were maintained in 2008 through the present.

Performance of Fishery and Quotas: The 2012 general category quota was 146,377 pounds and the first sub-period quota was fully harvested within 20 days. The second sub period quota was fully harvested within 8 days. There was a small overage for the general category in 2012 of 1,665 pounds. The floating fish trap quota was 93,266 pounds in 2012, of which 91,871 pounds were harvested, leaving 1,395 pounds un-harvested.

The commercial quota for 2013 remained at 239,643 pounds, the same as the 2012 quota. The general category however was penalized for the overage it incurred in 2012 and therefore had a quota of 146,107 pounds. The split between the two seasons for the general category was changed to 70% for the first season and 30% for the second season in 2013. So far in 2013 the first sub-period quota was fully harvested in 21 days and incurred an overage of ~8,600 pounds. This overage was due to increased effort in the last few days that the fishery was open and will be deducted from the second sub-period quota. At the time of this report writing the second sub-period has ~35,000 pounds to be harvested. The floating fish trap quota is 93,586 pounds in 2013, of which 52,263 has been harvested at the time of this report writing.

Commercial quotas of the magnitude needed to keep the fishery open throughout most of the season are unlikely in the next few years because the most recent stock assessments indicate that the population of striped bass has declined in abundance since the high level observed in 2004 and the recreational catch has increased over recent years. RIDFW recommends maintaining effort at or below the current level in the commercial striped bass fishery and to leave striped bass in the restricted species category.

BLACK SEA BASS

Stock Status: The black sea bass stock is no longer considered overfished and overfishing is not occurring. Previously, the black sea bass resource was defined as overfished when the three-year average of the spawning stock biomass (SSB) index, based on the NEFSC spring survey, was below the threshold biomass index. A new assessment was introduced and peer reviewed in 2008 that uses a forward projection modeling technique called SCALE (Statistical Catch at Length). This model was updated and it estimated that the 2011 SSB level for the black sea bass stock is 11,145 mt, below the SSB target of $SSB_{msy} = SSB_{40\%} = 12{,}537$ mt (Shepherd 2012a). The most recent update indicates that biomass remains at high levels despite the recent declines in biomass. The overfishing definition for the black sea bass resource is defined as the fishing mortality (F) $F_{40\%} = F_{msy} = 0.42$. The most recent stock assessment update for black sea bass concluded that overfishing was not occurring ($F_{2011} = 0.21$). A new benchmark assessment was initiated in 2011. The new assessment did not pass peer review; therefore the last peer reviewed assessment is the metric by which stock status is measured. Despite the improved stock status, the MAFMC Science and Statistical Committee (SSC) instituted a status quo allowed biological catch; therefore the black sea bass quota did not increase for 2012. The reason for remaining at status quo was due to the uncertainty calculations associated with the assessment which categorized the new assessment in a lower tier, which required remaining at status quo. The finding was reassessed in 2013. While the SSC did not change their opinion of the current stock assessment model and its ability to determine an over fishing limit, they did reconsider the level of constant catch and allowed for additional catch to occur in this fishery, increasing the quota in RI.

Management Program: The black sea bass stock is managed jointly by ASMFC and MAFMC. Amendment 13, which became effective in 2003, established a state quota system. Rhode Island's share of the commercial coastwide quota is 11%. Through advice from the RIFMC and the industry, DEM adopted regulations to allocate a percentage of the commercial quota into four seasonal sub-periods. The regulations also specified possession limits within each season.

Performance of Fishery and Quotas: The RI commercial fishery closed prematurely in each sub period in 2012 due to the quota remaining at low levels. This trend is expected to continue in to 2013, even with a small increase in quota. RI's quota in 2013 was 238,700 pounds. The quota for 2014 has not yet been determined, though it will most likely remain close to the quota allowed for in 2013. Despite the increase in quota, any expansion of effort at this time would hinder DEM from meeting its objective of keeping the fishery open throughout the year under reasonable possession limits, and in fact until the quota increases for this species, in-season closures will be common. For 2014, the RIDFW continues to recommend maintaining effort at or below current levels in the commercial black sea bass fishery and to leave black sea bass in the restricted species category.

WINTER FLOUNDER

Stock Status: In 2011, the NEFSC conducted the Northeast Regional Stock Assessment Workshop (SAW 52) and updated the Southern New England/Mid-Atlantic (SNE/MA) complex of winter flounder stock assessment. The previous assessment was completed in 2008 at GARM3 (NEFSC 2008). Results from SAW 52 concluded that the Southern New England/Mid-Atlantic (SNE/MA) winter flounder stock complex is overfished but overfishing is not occurring (NEFSC 2011).

The 2011 SAW52 assessment applied a version of an Age Structured Assessment Program (ASAP CAT10), which is an age-structured model that uses forward computations assuming fishing mortality is separated into year and age components to estimate population sizes given observed catches, catch-at-age, and indices of abundance. The workgroup concluded this model was more advanced and flexible than the Virtual Population Analyses (ADAPT VPA vers. 2.8.0) used for the GARM3 2008 assesment. A significant change coming from SAW52 was a change in the value for natural mortality (M) for all three stock groups of winter flounder (including SNE) from 0.2 to 0.3. The change in M is supported by literature values taken from tagging studies and life history equations (NEFSC 2011). Furthermore when the new M value of 0.3 is applied to the ASAP CAT10 model, the retrospective errors that required that the data series be split between 1993 and 1994 were reduced to acceptable levels allowing all data to be considered in one model run. It should be noted that changing the M value from 0.2 to 0.3 results in a downward shift in fishing mortality (F) as well as an upward shift in spawning stock biomass (SSB).

Results from the ASAP CAT10 model estimated fishing mortality (F) in 2010 to be 00.051, well under (17%) the FMSY = 0.310 as well as below (16%) F40% = 0.327. SSB in 2010 was estimated to be 7,076 mt, about 21% of SSBMSY = 33,820 mt and 24% of SSB40% = 29,045 mt. There is an 80% probability that in 2010 F and SSB were between 0.04 and 0.06 and 6,433 mt and 8,590 mt, respectively. Projections at F in 2012-2014 = F = 0.00 indicate a <1% chance

that the stock will rebuild to SSBMSY = 38,761 mt by 2014). Nonetheless, substantial increases in SSB can be achieved if F can be kept under 0.248.

Based in part on the high site fidelity of winter flounder and long history of state landings from RI, RIDFW assessed the local winter flounder stock within state waters in 2011 (M.R. Gibson, RIDFW Marine Fisheries, unpublished data). A new approach was used for a local benchmark assessment which examines the impacts of fishing and climate change through the lens of historical stock analysis. RIDFW determined that the fishing mortality rate in 2010 was below the calculated F_{MSY} = 0.20 and found to be F = 0.09, thus overfishing is not occurring. The F_{MSY} calculated in 2011 accounts for rising sea temperatures reducing the sustainable F rate by 50% (M.R. Gibson, RIDFW Marine Fisheries, unpublished data). Estimates of biomass have fluctuated over the time period 1959–2010, with two peaks occurring in the mid-to late-1960s and early 1980s, but showed a steady decline from 1983-1993, with the estimate for 1993 being the lowest in the time series. Estimates of biomass have remained well below the 2010 calculated B_{MSY} = 5,849 mt since 1988, despite a slight increase between 1994 and 1995. In 2010 the biomass estimate was calculated as 1034 mt indicating that the local stock is still overfished.

Management Program: The NEFMC manages the winter flounder resource through the Northeast Multispecies (Groundfish) Fishery Management Plan. Under the NEFMC Framework 50 for groundfish for the 2013-2014 fishing year, harvest of winter flounder is allowed in the federal SNE/MA stock management area, and federally permitted vessels who are in a sector are allowed to fish with no limit until they reach their sector allowable catch limit. Federally permitted vessels who are in the "common pool" have a 5,000 lb/vsl/day limit which is adjustable by the NMFS regional administrator. The SNE/MA management area remains open to common pool vessels until the allowable catch limit is reached. Federally permitted vessels may transit RI state waters with a federal possession limit as long as their gear is stowed.

At the state level, ASMFC manages the inshore winter flounder stocks through Addendum 1 to Amendment 1 to the interstate fishery management plan for inshore stocks of winter flounder. The current commercial possession limit for state waters is 50 lbs/vsl/day. During 2011 RIDEM extended the area closed to winter flounder fishing to include Point Judith Pond, the Harbor of Refuge, and Potters Pond. Both young of the year and adult spawning indices are at historic lows, the closure aims to protect a recovery of the population in the pond due to the SNE closure (Gibson 2010). In order to maintain a stream of commercial landings for assessment purposes, RI adopted a 50 pound possession limit in the RI coastal ponds (with the exception of Point Judith Pond, the Harbor of Refuge, and Potters Pond) and all state waters, except in Narragansett Bay north of the Colregs line where harvest or possession of winter flounder is prohibited. It should be noted the recreational management measures for winter flounder also reflect an effort to greatly reduce F. The recreational size and bag limit for winter flounder in 2011 was 12 inch size and 2 fish / person/day limit. The season runs from April 23 – May 22 and September 24 to October 23. There are also minimum fish size limits and mesh size restrictions per the requirements of Addendum 1.

Performance of Fishery and Quotas: A state quota has not existed since 2006. The rational for placing this species in the restricted category is based on the low levels of abundance locally and overfishing on a regional basis. RIDFW recommends considering changes in management to

allow more liberal commercial possession limit in state waters and an expanded recreational season. Any changes in state waters management would be the result of and in accordance with an increased allowable catch limit allotted to states from the ASMFC Winter Flounder Management Board. RIDFW also recommends taking winter flounder off of the restricted species list. Winter flounder is not managed via a quota system which is the traditional reasoning behind restricting a species. Winter flounder were put on the restricted species list because of their low population levels locally. The population has not rebounded however changes in federal management allowing harvest of winter flounder present an economic opportunity for RI ports to land federally caught winter flounder. Taking winter flounder off the restricted list would allow out of state vessels to land these fish in Rhode Island and increase revenue for the shore side economy.

NON-RESTRICTED FINFISH

The species relegated to the non-restricted categories include all species of finfish with the exception of those listed in the restricted category. All species for which the state is allocated a quota are listed as restricted with the exception of bluefish since the quota allocated to the state has been more than the industry is able to harvest since it was implemented. Three additional species have self imposed quotas applied to them in RI state waters: menhaden, cod, and monkfish. Stock status and management are summarized for bluefish, menhaden, cod, and monkfish.

BLUEFISH

Stock Status: The bluefish stock is not considered overfished and overfishing is not occurring. A new assessment was introduced and peer reviewed in 2005 that uses a forward projection modeling technique called ASAP (age structured assessment program). This is the same modeling technique used for both summer flounder and scup. The model was rerun in 2012 and indicated that the 2011 biomass level for the bluefish stock is 132,890 mt, which is above the biomass threshold = 73,526 mt. The overfishing definition for the bluefish resource is defined as the fishing mortality F_{msy} = 0.19. The most recent stock assessment model run for bluefish concluded that overfishing was not occurring (F_{2011} = 0.114) (NEFSC 2012).

Management Program: Bluefish are managed cooperatively by ASMFC and MAFMC through Amendment 1 to the Bluefish Fishery Management Plan (MAFMC and ASMFC 1998). The Bluefish Monitoring Committee meets annually to review the most recent data and to make recommendations regarding the commercial quota, the recreational harvest limit, and other management measures. Commercial quotas have been implemented since 1994 and have never been fully harvested until 2006. A closure was implemented in 2006 due to a large influx of landings during the fall season. No closures occurred in RI from 2007 through 2013 (as of this writing).

Performance of Fishery and Quotas: Since 1994 when states were first allocated a commercial quota for bluefish, Rhode Island has not fully harvested its allocation and the fishery has never been closed while the quota system has been in place, until 2006. In 2006 high catch rates in the fall period used up the quota and a commercial closure was implemented for the first time in RI.

In 2012 the commercial quota was 702,416 pounds, of which 628,213 was harvested, ~89% of the quota. The commercial bluefish quota in RI for 2013 is 617,902 pounds, a slight reduction from the 2012 quota. As of this writing ~98,000 pounds of bluefish have been harvested in 2013. No closures have been implemented, nor are any projected to occur. The Division's recommendation is to allow effort to increase above current levels in the commercial bluefish fishery and to leave bluefish in the non-restricted species category. In the future, if effort increases beyond what the quota can sustain and remain open for the entire year, or if the quota decreases to lower levels due to the stock status, the Division will re-assess whether bluefish needs to be moved in to the restricted species category, or a more likely scenario would be to implement more restrictive possession limits and seasons in order to control harvest.

MENHADEN

Stock Status: Menhaden are a highly migratory species that undergo a large amount of mixing off the coast of North Carolina in the winter months. The ASMFC Atlantic Menhaden Stock Assessment Subcommittee last assessed the menhaden stock in 2012. The 2012 assessment was deemed to be inappropriate for management purposes though the technical committee did concluded that that overfishing was occurring on menhaden at some level (ASMFC 2012). The ASMFC Atlantic Menhaden Technical Committee went on to state that because the stock is assessed as a single coastwide unit, the assessment might not account for factors affecting the stock at the local level such as fishing, predation, or climatological events. Recently, the Technical Committee has worked on looking at new reference points with which to measure stock status. The management board approved what they called an "interim" reference point of maximum spawning potential (MSP) which resulted in a new reference point of $F_{15\%MSP}$=1.32. A final item being worked on by the Technical Committee is the consideration of ecosystem based reference points. These items will be studied and may be important factors for future stock status determinations. Amendment 2 to the Atlantic menhaden FMP was approved in 2013. The intent of the amendment is to set the management measures to bring the stock status to the new MSP reference points.

Management Program: Atlantic Menhaden are managed in RI through the use of seasons and management areas. In general, Narragansett Bay in its entirety is considered a Menhaden Management Area. The management area allows purse seine fishing for menhaden through the main stems of Narragansett Bay while excluding the Providence River. There are also weekend, holiday, and Sunday closures in the Bay. Beginning January 9, 2003, purse seining for menhaden for use in the reduction fishery was prohibited in RI state waters. This regulation is still in effect. Similar provisions exist in state waters along the entire Atlantic coast with the exception of North Carolina and Virginia, where the bulk of the reduction fishery takes place. Purse seining for use in the bait industry is still allowed in RI as set forth above. Emergency regulations were implemented in 2007 that placed a cap on the daily landings that could occur in Narragansett Bay (75,000 pounds). The regulation also placed an overall cap on the amount of fish that could be removed from the Bay stating that removals could not exceed 50% of the standing stock in the Bay. Once the 50% trigger is hit the purse seine fishery will close in Narragansett Bay. The trigger is monitored through the use of a depletion model for open systems (Gibson 2007). This same management regime was conducted in 2010 with the exception of the additional gear restrictions on net size certification, vessel capacity restrictions, and a tiered approach to increasing possession limits based on the population level of menhaden in Narragansett Bay. The

tiered system also includes a threshold amount of fish that needs to be present in Narragansett Bay before the commercial bait fishery can begin (1.5 million pounds). In 2012 and 2013, all of the elements mentioned above were in place with the exception of the increasing possession limits; the possession limits were kept at a static 120,000 per vessel per day. Amendment 2 also requires states to implement a state waters quota based on the calculations set forth in the Amendment. This state waters quota was implemented in RI waters via emergency regulation in June of 2013, and will be going to public hearing in August of 2013 for official promulgation. The quota monitoring is complex and allows for some landings to occur even after the quota is reached, though at a reduced level. It also allows for the state to opt in to an episodic event quota if certain requirements are met.

Performance of Fishery and Quotas: Since 2005, large schools of adult menhaden entered Narragansett Bay to varying degrees. As of the writing of this document the quota has not been reached for menhaden. RI implemented the Narragansett Bay management plan in 2007 through emergency regulations that was prompted by the increasing interest in the bait fishery, specifically a second large menhaden purse seine vessel that entered RI waters. The new management plan was brought to public hearing in 2007. The original plan was modified as noted above. The stock size entering the Bay in 2013 was somewhat larger than seen in the previous 3 years. The fishery closed on July 3rd in 2013.

<u>At this point the Division's recommendation is to allow effort to remain at or below current levels in the menhaden bait fishery and to leave menhaden in the non-restricted species category.</u> The approach of adding a gear endorsement was hoped to provide some protection against a large influx of effort in to this fishery, however the Division believes that these endorsements should only be made available on a renewal basis (place a moratoria on issuance of new purse seine endorsements). The current level of purse seine endorsements (2012 = 189 purse seine endorsements) that exist is an unsustainable number and it may be necessary to institute a history based restriction in the future if a large percentage of the existing latent effort becomes activated.

Monkfish

Stock Status: The federal monkfish (*Lophius americanus*) fishery is jointly managed by the New England Fishery Management Council (NEFMC) and Mid Atlantic Management Council (MAFMC), with the NEFMC having the administrative lead. The fishery is managed as two stocks, with the Northern Fishery Management Area (NMA) covering the Gulf of Maine and northern part of Georges Bank, and the Southern Fishery Management Area (SMA) extending from the southern flank of Georges Bank through the Mid-Atlantic Bight to North Carolina (NEFMC 2011). RI State waters are considered part of the SMA stock.

An operational stock assessment (i.e. update) was completed in 2013 (NEFSC 2013b) that included two additional years survey data, revised discard estimates for 1980-2011, and overall contained minimal changes to methodological approaches used in the previous per-reviewed SAW 50 benchmark stock assessment (NEFSC 2010e). Although the recent operational stock assessment recalculated the fishing mortality rate corresponding to the overfishing threshold (F_{max}) and updated the biomass reference points (BRPs) that were generated in SAW 50 (NEFSC 2010) the stock status remained unchained for both stock components. Specifically, the SMA stock is not overfished and overfishing is not occurring.

Results from the Statistical Catch At LEngth (i.e. SCALE) model used for both the recent update (NEFSC 2013b) and in SAW 50 (NEFSC 2010) still contain high levels of uncertainty due to weaknesses in input data, such as under-reported landings and unknown discards during the 1980s, incomplete understanding of key biological parameters such as age and growth, longevity, natural mortality, sex ratios and stock structure, and the relatively short reference time frame of the model (i.e. no information prior to 1980) (NEFSC 2013b). The current update also retained the retrospective pattern from SAW 50, which potentially underestimates F and overestimates biomass. The current 2011 estimate of fishing mortality is $F_{2011} = 0.11$ (retrospective bias -22%, corrected $F_{2011} = 0.14$) does not exceed the new updated definition of $F_{max} = 0.37$. The southern monkfish stock is considered overfished when total biomass falls below $B_{threshold} = 35{,}834$ mt. Total biomass in 2011 was estimated to be approximately 131,218 mt (retrospective bias +24%, corrected total biomass = 88,806 mt), above both $B_{target} = 71{,}667$ mt and $B_{threshold}$.

The NEFMC Scientific and Statistical Committee (SSC) is currently developing recommendations for the Allowable Biological Catch (ABC) and subsequent Total Allowable Landings (TAL) for the 2014-2016 fishing years. This report will be updated prior to regulatory filing with the most current information available at the time.

Management Programs: Fishing mortality for the SMA monkfish stock is regulated by the NEFMC through minimum size limits, gear restrictions, and days at sea (DAS) restrictions. In an effort to meet statuary requirements to complement federal fishery management plans, RI has adopted a minimum size limit, daily possession limit, and state quota on monkfish harvested in state waters.

In December of 2011 RI increased the state quota from 1% to 3% of the SMA Total Allowable Landings (TAL). The current program consists of a state quota set at 3% of the SMA TAL (590,288 lbs) with a daily possession limit of 550 lbs tails or 1,826 lbs whole fish. The possession limit is reduced to 50 lbs tails or 166 lbs whole fish for the remainder of the fishing year when state-water landings reach 2% of the SMA TAL (393,525 lbs). The commercial monkfish fishery operates on a May 1 through April 30 fishing year, with a minimum size limit of 11” tails or 17” whole fish.

Performance of Fishery and Quotas: During the 2009 fishing year state-water landings approached 90% of the quota; however, the threshold was not reached and there was no disruption to the fishery. During the 2010 fishing year state-water landings approached 90% of the quota in late October and the possession limit was reduced per regulation, which closed the directed monkfish fishery in state waters. Total state-water landings for the 2010 fishing year were 106,518 lbs or 97% of the state quota. The increase in state-water landings from the 2009 to 2010 fishing year was in part attributed to increased biomass in state waters, as well as increased participation in the state-water fishery by vessels with access to federal monkfish permits. The latter appears to have reduced duration of the directed RI state-water monkfish fishery and the portion of quota available to state-water only vessels.

Total state-water landings for the 2011 fishing years were 182,443 lbs, which was a 71% increase from 2010. The total state-water landings for the 2012 fishing year were 144,599 lbs, a 21% decrease from the previous fishing year, and only represented 37% of the state possession limit reduction threshold (2% SMA TAL) and 25% of the state quota (3% SMA TAL).

Assuming that effort and landings remain constant it appears that the current management program should provide for the directed fishery to remain open for the entire fishing year.

The rational for leaving this species in the unrestricted category is based on the ephemeral nature of monkfish abundance in state waters and increasing state quota that should provide for a directed fishery to operate throughout the fishing year. The Division's recommendation is to allow effort to increase above current levels in the commercial monkfish fisheries and to leave monkfish in the non-restricted species category. In the future, if effort increases beyond what the state imposed quotas can sustain and remain open for most if not the entire year, or if the quota decreases to lower levels due to the stock status, the Division will re-assess whether monkfish need to be moved in to the restricted species category. An alternative scenario would be to implement more restrictive possession limits or seasons in order to control harvest.

Cod

Stock Status: In June of 2013 the NEFSC completed a nearly one and one-half year review of the 2012 stock assessment for Gulf of Maine (GOM) and George's Bank (GB) cod stocks with the publication of the 55th Northeast Regional Stock Assessment Workshop (SAW 55) report (NEFSC 2013a). SAW 55 contains the most recent, comprehensive, peer reviewed stock assessment of the George's Bank (GB) cod stock (NEFSC 2008b), which is the stock relative to Rhode Island waters.

In short, the GB Cod stock is at historically low biomass and based on the results of SAW 55 (NEFSC 2013a) the GB Cod annual catch limit (ACL) for the 2013 fishing year will be 58% lower than in 2012 ACL (NEFMC 2013). Based on the results of SAW 55 (NEFSC 2013a) the current non-parametric biological reference points (BRP) for GB cod, based on $F_{40\%}$ are: SSB_{2011} = 13,216 mt; F_{2011} = 0.43; F_{MSY} proxy ($F_{40\%}$) = 0.18, SS_{BMSY} proxy = 186,535 mt (80% CI: 155,398 - 220,756), and MSY proxy = 30,622 mt, (80% CI: 25,450- 36,302). Based on the accepted BASE ASAP model results, adjusted for retrospective bias, the stock is overfished (SSB_{2011} = 13,216 mt < ½ SSB_{MSY}) and overfishing is occurring (F_{2011} = 0.43 > $F_{40\%}$).

Management Programs: Atlantic cod (*Gadus morhua*) are managed under the New England Fishery Management Council's (NEFMC) Northeast Multispecies Fishery Management Plan (FMP). The Northeast Multispecies FMP contains a complex of 15 groundfish species that have been managed by time/area closures, gear restrictions, minimum size limits, and recently using a Catch Shares approach (i.e. sectors) under Amendment 16 (NEFMC 2009). Framework Adjustment 48 to the Northeast Multispecies FMP (NEFMC 2013) specified the total annual catch limits (ACL) and sub-ACLs for GB cod for 2013-2015 fishing years, which as stated above are ~ 58% lower than recent years. More specifically the 2013 ACL for GB Cod is 1,907 mt, which converts to a 19.07 mt or 42,042 lbs RI state-water quota.

In an effort to satisfy statuary requirements to complement federal fishery management plans, RI has opted to impose a minimum size limit, daily possession limit, and a state quota. Other than technical changes, the current program has not changed since April of 2009 and consists of a state quota set at 1% of the Georges Bank annual catch limit (ACL) and a 1,000 lb possession limit with a possession limit reduction to 75 lbs limit when 90% of the state quota is harvested. A fishery closure is required when the quota is reached. The commercial codfish fishery

operates on a May 1 through April 30 fishing year, There is a 22" minimum size limit and from Dec 2011 until June 30, 2012 there was a temporary fillet rule that allowed for possession of fillets or cleaned cod (head and tail removed) at least 14" in length.

Performance of Fishery and Quotas: The state quota for cod has not been met since it's inception in 2009. During the 2009 fishing year state landings of cod equaled 5, 233 lbs or 6.8% of the 77,307 lb state quota. During the 2010 and 2011 fishing years state landings of cod equaled 13,653 lbs (17.1% of the 79,821 lb state quota) and 15,538 lbs lbs (15.5% of the 100,090 lb state quota), respectively. During the recent 2012 fishing year state landings of cod equaled 31,868 lbs (32% of the state quota), which is more than double the 2011 total state landings. Despite annual increases in state-water landings of cod, total landings for a given fishing year have been well below the state quota. However considering the dramatic decrease in the federal ACL, if state-water landings continue to increase the possession limit reduction will likely be triggered (2013 trigger is 37,838 (90% of 2013 state-water quota of 42,042 lbs).

The rational for leaving cod in the unrestricted category is based on the ephemeral nature, as well as relatively low levels of cod abundance in state waters, relative to the state quota. The Division's recommendation is to allow effort to increase above current levels in the commercial cod fisheries and to leave cod in the non-restricted species category. In the future, if effort increases beyond what the state imposed quotas can sustain and remain open for most, if not the entire year, or if the quota decreases to lower levels due to the stock status, the Division will re-assess whether cod need to be moved in to the restricted species category. An alternative scenario would be to implement more restrictive possession limits and seasons in order to control harvest.

LICENSING OPTIONS AND RECOMMENDATIONS

For the 2013 fishing season, the Department issued 6 new Principle Effort Licenses with a Restricted Finfish Endorsement. This decision was based on the Division's assessment of the restricted finfish species, deliberations with the RI Marine Fisheries Council, and requirements set forth in statute. An exit/entry ratio was established at 1:1 (for every 1 active licenses eligible to harvest restricted species that was not renewed, 1 new restricted finfish endorsement was issued) in order to allow some new entrance into the restricted finfish category as well as replace some effort that had presumably exited the fishery. The ratio was set up to be reflective of both current fishing effort on the restricted finfish species and assuming that the latent effort was accounted for with the activity requirement of the license. The 6 new endorsements were made available at a full harvest level. A total of 28 licenses — a reduction of 24 Multi-Purpose Licenses (MPURP) + 4 Principle Effort Licenses (PEL)—that were eligible to catch restricted finfish in 2012 were not renewed for 2013. This measure also protects against dramatically increasing effort.

RI Marine Fisheries Council Advice –The Industry Advisory Committee (IAC) of the RIMFC, required under RIGL 20-2.1-11, met to formulate advice for the Council on licensing and recommended status quo for the restricted finfish fishery in 2013. To continue to apply a 1:1 exit/entry ratio to active licenses (MPLs + PELs w/RFF) that retired in 2013, with active being any level of reported landings of restricted finfish during the prior calendar year. This would

allow 9 new Principal Effort Licenses **(**PEL) with a Restricted Finfish Endorsement to be made available for 2013. In addition, the IAC supported the proposals for removing winter flounder from the restricted species list, and removing scup from the restricted species list from November 1 through April 30th.

[THIS SECTION TO BE DETERMINED, TEXT LEFT FOR CONSISTENCY]The RIMFC recommendation to the Director was to remain with the status quo as the IAC had recommended, allowing 6 new Principal Effort Licenses (PEL) with a Restricted Finfish Endorsement to be made available for 2013.

Of the 20 non-renewals as mentioned above, 6 had some level of fishing effort (based on 2011 landings data from SAFIS). As previously noted, 6 new PEL w/restricted finfish endorsements were issued in 2012. The catch rates of the 2012 restricted finfish species were similar or less than the rates in 2011; therefore the increase in licenses made available in 2011 did not translate into a noticeable increase in effort on these species. The quota allocated to RI in 2013 for a few of the restricted finfish and quota species (i.e., black sea bass, tautog, striped bass, and winter flounder) are assumed to be equal to or less than in 2012. As stated by the legislature in RIGL 20-2.1-2 the licensing regulations should seek to "Preserve, enhance, and allow for any necessary regeneration of the fisheries of the state, for the benefit of the people of the state, as an ecological asset and as a source of food and recreation" while "Providing Rhode Islanders who wish to fish commercially the opportunity to do so and end the moratorium on issuance of new commercial fishing licenses so that new licenses may be issued" and "Respect(ing) the interests of residents who fish under licenses issued by the state and wish to continue to fish commercially in a manner that is economically viable." Therefore, to protect against increasing effort on decreasing or stagnant quotas, while allowing some increase in effort on species that are not currently experiencing stock impairment (i.e. the non restricted species, and the restricted species scup), the Division recommends not dramatically increasing effort on any of the restricted species, but allowing effort to be maintained at current levels, or to have modest increases in effort in the case of scup. Since active licenses have left the fishery in 2012 the Division feels that replacing these licenses with an exit entrance ratio of 1:1 would be warranted as data indicates introducing a small number of restricted endorsements in a cautious manner does not dramatically impact effort in a given year, thereby meeting the intent and goals of the legislature per RIGL 20-2.1-2. As well, there does not appear to be the need to add complexity in to the licensing system by continuing to only allow new entrants a license with restricted possession rules, therefore any new endorsements issued should be at the full harvest level (Principle Effort License).

Recommendations -

The following recommendation is believed to be protective of the restricted finfish species in RI, therefore the Division of Fish and Wildlife recommends:

1. New restricted finfish endorsements for the 2014 fishing season based on a 1:1 exit/entrance ratio of active licenses that have left the fishery, which would result in 9 new restricted finfish licenses to be issued at the PEL level in 2014.

2. Maintain open entry in to the non-restricted finfish endorsements.
3. Cap access to the purse seine and pair trawl endorsements and only allow issuance of renewed endorsements (place moratoria on new endorsements).
4. Explore vessel declaration options within the license structure with an eye towards moving to a vessel based licensing system.
5. Review and simplify the landing licenses to allow for three landings licenses; resident, non resident, and grandfathered non resident licenses that allow for the landing of restricted species.
6. Additionally there is a recommendation for removing scup from the restricted species list during the winter (federal) quota periods and for removing winter flounder from the restricted species list for the entire year.

[THIS SECTION TO BE DETERMINED, TEXT LEFT FOR CONSISTENCY] The Director of DEM supported the recommendations from the RIMFC and the Division by adopting status quo, a 1:1 exit/entry ratio for the restricted finfish fishery allowing 6 new Principal Effort Licenses (PEL) with a Restricted Finfish Endorsement to be made available for 2013.

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Table 1. Historical commercial license counts.

LICENSES					
	2009	**2010**	**2011**	**2012**	**2013**
MULTI-PURPOSE LICENSE	917	887	867	853	829
GILLNET ENDORSEMENT	251	241	236	233	227
DOCKSIDE SALE ENDORSEMENT	276	272	261	251	241
MIDWATER/PAIR TRAWL ENDORSEMENT	123	123	124	131	132
PURSE SEINE ENDORSEMENT	128	136	137	139	134
RESEARCH SET ASIDE ENDORSEMENT					14

PRINCIPAL EFFORT LICENSE	776	735	713	690	655
LOBSTER ENDORSEMENT	40	38	37	36	30
NON-LOBSTER CRUSTACEAN ENDORSEMENT	20	22	28	33	35
QUAHOG ENDORSEMENT	473	450	422	398	376
RESTRICTED FINFISH ENDORSEMENT	265	248	258	266	262
NON-RESTRICTED FINFISH ENDORSEMENT	128	127	127	131	135
SOFTSHELLED CLAM ENDORSEMENT	325	304	284	256	235
WHELK ENDORSEMENT	0	0	0	146	118
DOCKSIDE SALE ENDORSEMENT	13	14	16	13	13
MIDWATER/PAIR TRAWL ENDORSEMENT	3	5	9	9	8
PURSE SEINE ENDORSEMENT	6	5	7	8	7
OTHER SHELLFISH ENDORSEMENT (replaces non-quahog endorsement)	278	265	249	225	211
RESEARCH SET ASIDE ENDORSEMENT	0	0	0	0	3
COMMERICAL FISHING LICENSE	433	449	394	398	420
LOBSTER ENDORSEMENT	22	19	17	16	15
NON-LOBSTER CRUSTACEAN ENDORSEMENT	102	119	120	114	100
QUAHOG ENDORSEMENT	118	127	141	158	165
RESTRICTED FINFISH ENDORSEMENT	14	18	0	0	0
NON-RESTRICTED FINFISH ENDORSEMENT	256	273	238	252	256
SOFTSHELLED CLAM ENDORSEMENT	206	191	175	174	163
WHELK ENDORSMENT	0	0	0	109	92
DOCKSIDE SALE ENDORSEMENT	25	22	20	16	14
MIDWATER/PAIR TRAWL ENDORSEMENT	38	39	31	40	46
PURSE SEINE ENDORSEMENT	35	28	28	42	40
OTHER SHELLFISH ENDORSEMENT (replaces non-quahog endorsement)	199	206	201	171	160
RESEARCH SET ASIDE ENDORSEMENT	0	0	0	0	7
OVER 65 SHELLFISH LICENSE	179	201	217	240	268
STUDENT SHELLFISH LICENSE	54	49	55	49	48

Table 2a. Possession limits (pounds), seasons, and quotas established for Rhode Island commercial fisheries in 2013 (through June).

Month/Species	Black Sea Bass	Scup General Category	Striped Bass General Category	Summer Flounder w/out Exemption Certificate	Summer Flounder w/ Exemption Certificate	Tautog
January	750/day (1/1)	50,000/day (1/1)	CLOSED (1/1)	200/day (1/1)	300/day (1/1)	CLOSED (1/1)
February	750/day	50,000/day	CLOSED	200/day	300/day 2,500/wk or 300/day (2/3)	CLOSED
March	750/day	50,000/day	CLOSED	200/day	2,500/wk or 300/day 2,000/wk or 300/day (3/3)	CLOSED
April	750/day 200/day (4/14) CLOSED (4/21)	50,000/day	CLOSED	200/day 100/day (4/21)	2,000/wk or 300/day 1,000/wk or 200/day (4/14) 100/day (4/21)	CLOSED 10 fish (4/15)
May	50/day (5/1)	10,000/wk 5,000/wk (5/26)	CLOSED	100/day	100/day	10 fish CLOSED (5/12)
June	50/day CLOSED (6/3)	5,000/wk	CLOSED 5 fish (6/6) CLOSED Fri/Sat thru-out CLOSED (6/27)	100/day 50/day (6/23)	700/wk or 100/day 350/wk or 50/day (6/23)	CLOSED
Days in Season	334	365	202	365	365	171
Days Closed	SIP	SIP	SIP	SIP	SIP	SIP

SIP = Season in progress as of this writing

Table 2a. (*continued*) Possession limits (pounds), seasons, and quotas established for Rhode Island commercial fisheries in 2013.

2013 COMMERCIAL SEASONS				
Black Sea Bass	Scup[+] General Category	Striped Bass[+] General Category	Summer Flounder	Tautog
Jan. 1 - April 30 May 1 - June 30 July 1 - Oct. 31 Nov. 1 - Dec. 31	Jan. 1 – April 30[F] May 1 - July 6 July 7 - Sept. 14 Sept. 15 - Oct. 31 Nov. 1 – Dec. 31[F]	June 6 - Aug. 31[*] Sept. 8 - Dec. 31[*]	Jan. 1 - April 30 May 1 - Oct. 31 Nov. 1 - Dec. 31	April 15 - May 31 Aug. 1 - Sept. 15 Oct. 15- Dec. 31
2013 COMMERCIAL QUOTAS				
Black Sea Bass	Scup General Category	Striped Bass General Category	Summer Flounder	Tautog
238,700	2,059,673	144,712	1,794,100	51,348

+ Floating Fish Trap management had open seasons and no possession limit
[F] Federal coastwide quota
* Closed Fridays and Saturdays

Table 2b. Possession limits (pounds), seasons, and quotas established for Rhode Island commercial fisheries in 2012.

Month/Species	Black Sea Bass	Scup General Category	Striped Bass General Category	Summer Flounder w/out Exemption Certificate	Summer Flounder w/ Exemption Certificate	Tautog
January	750/day (1/1) 500/day (1/19)	50,000/day (1/1)	CLOSED (1/1)	200/day (1/1)	500/day (1/1)	CLOSED (1/1)
February	500/day	50,000/day	CLOSED	200/day	3,500/wk or 500/day (2/5)	CLOSED
March	500/day	50,000/day	CLOSED	200/day	3,500/wk or 500/day 2,500/wk or 500/day (3/4) 2,000/wk or 500/day (3/25)	CLOSED
April	250/day (4/1) CLOSED (4/16)	50,000/day	CLOSED	200/day 100/day (4/21)	1,500/wk or 300/day (4/1) 500/day (4/15) 100/day (4/21)	CLOSED 10 fish (4/15)
May	50/day (5/1) CLOSED (5/29)	5,000/wk (5/1) 10,000/wk (5/27)	CLOSED	100/day	100/day	10 fish CLOSED (5/5)
June	CLOSED	10,000/wk 20,000/wk (6/10)	CLOSED 5 fish (6/6) CLOSED Fri/Sat thru-out CLOSED (6/26)	100/day	700/wk or 100/day	CLOSED
July	50/day (7/1) CLOSED (7/30)	5,000/wk (7/1) 20,000/wk (7/3) 30,000/wk (7/15)	CLOSED	100/day	700/wk or 100/day	CLOSED
August	CLOSED	30,000/wk	CLOSED	100/day 50/day (8/12)	700/wk or 100/day 350/wk or 50/day (8/12)	10 fish
September	CLOSED	30,000/wk 5,000/wk (9/16) 50,000/wk (9/17)	5 fish (9/11) CLOSED Fri/Sat thru-out CLOSED (9/19)	50/day 100/day (9/16)	350/wk or 50/day 700/wk or 100/day (9/16)	10 fish CLOSED (9/16)
October	CLOSED	50,000/wk	CLOSED	100/day	700/wk or 100/day	CLOSED 10 fish (10/15)
November	250/day (11/1) 50/day (11/2)	2,000/day (11/1) 8,000/day (11/2)	CLOSED	200/day (11/1) 150/day (11/30)	700/day 350/day (11/24) 150/day (11/30)	10 fish
December	50/day CLOSED (12/20)	8,000/day	CLOSED	150/day 200/day (12/12)	150/day 500/day (12/12)	10 fish CLOSED (12/24)
Days in Season	334	365	199	365	365	171
Days Closed	154	0	171	0	0	35

Table 2b. (*continued*) Possession limits (pounds), seasons, and quotas established for Rhode Island commercial fisheries in 2012.

2012 COMMERCIAL SEASONS				
Black Sea Bass	Scup General Category	Striped Bass General Category	Summer Flounder	Tautog
Jan. 1 - April 30 May 1 - June 30 July 1 - Oct. 31 Nov. 1 - Dec. 31	Jan. 1 - April 30[F] May 1 - June 30 July 1 - Sept. 15 Sept. 16 - Oct. 31 Nov. 1 - Dec. 31[F]	June 6 - Aug. 31* Sept. 11 - Dec. 31*	Jan. 1 - April 30 May 1 - Oct. 31 Nov. 1 - Dec. 31	April 15 - May 31 Aug 1 - Sept. 15 Oct. 15- Dec. 31
2012 COMMERCIAL QUOTAS				
Black Sea Bass	Scup General Category	Striped Bass General Category	Summer Flounder	Tautog
188,100	2,443,229	146,377	2,060,116	51,348

+ Floating Fish Trap management had open seasons and no possession limit
[F] Federal coastwide quota
* Closed Fridays and Saturdays

Table 3. The proposed 2013 Coastwide Commercial Quotas being considered by the ASMFC and MAFMC in comparison the 2012 Commercial Quotas. The limits proposed for 2013 will be sent to NOAA for final approval. The values in the table represent millions of pounds.

Species	**2012**	**2013**	**2014**
Scup	12.73	11.44	
Summer Flounder	27.91	23.53	
Black Sea Bass	1.71	1.78	TBD
Bluefish	10.32	9.08	TBD

Rule 8. EFFECTIVE DATE

The foregoing rules and regulations Rhode Island Marine Statutes and Regulations, after due notice, are hereby adopted and filed with the Secretary of State this **~~8th of November, 2012~~** to become effective 20 days from filing, unless **otherwise indicated below**, in accordance with the provisions of Chapter 42-17.1, Section 20-1-4, Section 20-2.1 and Public Laws Chapter 02- 047, in accordance with Chapter 42-35 of the Rhode Island General Laws of 1956, as amended.

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Janet L. Coit, Director
Department of Environmental Management

Notice Given: ~~08/09/2012~~
Public Hearing: ~~09/12/2012~~

Filing date: ~~11/08/2012~~
Effective date: ~~11/28/2012~~

ERLID# ~~7039~~