

**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 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) Amendments to Part VII - Minimum Sizes of Fish/Shellfish, regarding management for **recreational Summer Flounder** (section 7.7.4);
- 2) Amendments to Part VII - Minimum Sizes of Fish/Shellfish, regarding management for **recreational Winter flounder** (section 7.8.1-2);
- 3) Amendments to Part VII - Minimum Sizes of Fish/Shellfish, regarding management for **recreational Tautog** (section 7.9.1);
- 4) Amendments to Part VII - Minimum Sizes of Fish/Shellfish, regarding management for **commercial Tautog** (section 7.9.2);
- 5) Amendments to Part VII - Minimum Sizes of Fish/Shellfish, regarding management for **recreational Scup** (section 7.11.3);
- 6) Amendments to Part VII - Minimum Sizes of Fish/Shellfish, regarding management for **recreational Black Sea Bass** (section 7.14.2);
- 7) Amendments to Part VII - Minimum Sizes of Fish/Shellfish, regarding management for **Coastal Sharks** (section 7.24);
- 8) Amendments to Part VII - Minimum Sizes of Fish/Shellfish, in their entirety, for general editing: to remove duplicative language; to add and/or correct statutory citations; and to add general provisions regarding possession limit changes, transiting, reporting requirements, penalties and appeals;
- 9) Amendments to Part XII – Striped Bass, regarding management for **recreational Striped Bass**;
- 10) Amendments to Part XII – Striped Bass, regarding management for **commercial Striped Bass**;
- 11) Amendments to Part XII – Striped Bass, regarding management for **commercial Striped Bass floating fish trap**;
- 12) Amendments to Part XII – Striped Bass, in their entirety, for general editing; to remove duplicative language; to correct statutory citations; and to add general provisions regarding possession limit changes, penalties and appeals;
- 13) Amendments to Part IV – Shellfish, regarding **correcting two technical errors delineating the borders of the Bristol Harbor Shellfish Management Area** (section 4.22);
- 14) Amendments to Part IV – Shellfish, regarding management of **Conch** (section 4.35); **including addition of provision regarding a Fishery Closure due to Eminent Public Health Risk (Bio-toxins)**;

- 15) Amendments to Part IV - Shellfish, in their entirety: to re-format numbering/lettering of sections; to remove duplicative language; for general editing; to add and/or clarify descriptions of Shellfish Management Areas; to add and/or correct several statutory citations; and to add general provisions regarding penalties and appeals;
- 16) Amendments to Part III – Marine Fisheries Council, to remove the section regarding the description of Shellfish Management Areas (section 3.6);
- 17) Amendments to Part III – Marine Fisheries Council, in their entirety, for general editing; and to remove duplicative language
- 18) Amendments to Part XI – Commercial Fisheries, regarding a **commercial fishing prohibition in designated experimental artificial reef locations in the Narragansett Bay Marine Life Management Area**;
- 19) Amendments to Part XI – Commercial Fisheries, regarding general editing; to remove duplicative language; to correct statutory citations; to clarify descriptions of Marine Life Management Areas; and add general provision for penalties and appeals;
- 20) Amendments to Part XVI – Menhaden regarding commercial Menhaden fisheries;
- 21) Amendments to Part XVI – Menhaden, regarding general editing; to remove duplicative language; to correct statutory citations; and to add general provision for penalties and appeals.

The public hearing will commence at **6:00 PM** on **Tuesday, March 25, 2014** in 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 deaf and hard of hearing will be provided if such services are requested at least two (2) weeks 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/>.

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 Noon on March 25, 2014. Comments must be submitted directly to Peter Duhamel via email at peter.duhamel@dem.ri.gov or regular mail. A recording of the hearing will be made by DEM staff.

The Department has determined that small businesses may be adversely impacted by the proposed regulations. 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 February 21 through March 25, 2014 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/pn032514.htm>.

Mark Gibson,
Deputy 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
~~STATUTES AND~~ REGULATIONS

Part XI
Commercial Fisheries

~~December 19, 2013~~

ANNOTATED REGULATIONS
MARCH 25, 2014 PUBLIC HEARING

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.

PUBLIC HEARING ITEM # 19

General editing; to remove duplicative language; to correct statutory citations; to clarify descriptions of Marine Life Management Areas; and add general provision for penalties and appeals;

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**~~RHODE ISLAND MARINE FISHERIES
STATUTES AND REGULATIONS~~**

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

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

~~**RHODE ISLAND MARINE FISHERIES
STATUTES AND REGULATIONS**~~

PURPOSE

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

AUTHORITY

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

~~**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 Part XI 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.

R.I. Marine Fisheries ~~Statutes and~~ Regulations
PART XI - COMMERCIAL FISHERIES

11.1 Commercial Fishing: No person shall engage in the taking for sale by any manner, method, or contrivance, of any marine finfish, shellfish, crustacean, or other invertebrate; and no vessel, boat, trap, seine, or other fishing gear shall be used in the taking for sale of any marine finfish, shellfish, crustacean, or other invertebrate unless a license therefor has been obtained as provided in this Title (RIGL 20-4-1; Penalty ~~-Part 1.16; (RIGL 20-1-16)~~)

Otter Trawls, Pair Trawls, and Beam Trawls

11.2 Areas Prohibited: Unless otherwise specified in regulations adopted by the ~~Marine Fisheries Council~~ **Department**, and except for those areas described in § 20-4-3 (~~Part 11.4~~), no person shall operate a beam, pair, or otter trawl or other mechanical trawling device in the Sakonnet River, Narragansett Bay, in Point Judith Pond, so-called, in the towns of Narragansett and South Kingstown, or the Harbor of Refuge, so-called, in the town of Narragansett, or in Potter Pond, so-called, in the town of South Kingstown, or in Great Salt Pond, so-called, in the town of New Shoreham (RIGL 20-4-2; ~~Penalty 20-1-16~~).

11.3 Areas Allowed: Any **duly** licensed resident commercial fisherman and a nonresident commercial fisherman licensed pursuant to § 20-2-28, may operate otter, beam, or pair trawls, or other mechanical trawling device subject to rules and regulations of the ~~Marine Fisheries Council~~ **Department**, in the area of Narragansett Bay and Sakonnet River south of a line, extending from [a DEM marker at] Spink Neck in the town of North Kingstown in a northeasterly direction to [a DEM marker at] Pine Hill Point on Prudence Island and from a point at Homestead Dock on the easterly shore of Prudence Island, thence northeasterly to Hog Island shoal light, thence to the north abutment of Mt. Hope Bridge in the town of Bristol, and south of a line extending from McCurry Point, so-called, on the east side of the town of Portsmouth northeasterly in a line to the southerly point of Jack's Island, so-called, in the town of Tiverton. The area subject to this section may be changed by rules and regulations adopted by the ~~Marine Fisheries Council~~ **Department** (RIGL 20-4-3; ~~Penalty -Part 1.16; (RIGL 20-1-16)~~).

~~NOTE: Also refer to Parts 11.4, 11.14, and 11.19~~

~~11.4 Penalties: Any person who operates an otter, beam, or pair trawl, or other mechanical trawling device without a license as provided in 20-4-3 shall, upon conviction, be fined five hundred dollars (\$500) for each offense or may be imprisoned not exceeding thirty (30) days, or both. In addition to any fines imposed for failure to secure a license, the person shall be subject to the same penalties as set forth in §20-1-16 should the person set a beam, pair, or otter trawl, or other mechanical trawling device in areas prohibited by §20-4-2 or rules adopted under this section. (RIGL 20-4-4)~~
Repealed.

11.5 Seines, Fyke Nets, and Trawling Regulations in Ponds and Rivers: It shall be

illegal to set, haul, and/or maintain a seine along the shoreline within one half (½) mile in both directions of the seaward entrance to any of the ponds and rivers listed below when the area is open to the sea. This seining prohibition shall also extend seaward for a distance of three hundred (300) yards. The following areas shall be covered by this regulation: Quicksand Pond and channel, Tunipus Pond and channel, Cards Pond and channel, Trustom Pond and channel, Quonochontaug Pond and channel, Charlestown Pond and channel, **Brightman Winnapaug** Pond and channel. ~~It shall be illegal to set, haul, and/or maintain a seine in the Harbor of Refuge and within one hundred (100) yards of the Harbor of Refuge Breakwater.~~ Fyke nets are prohibited in all of the Salt Pond channels described in these regulations (refer to def. section).

In addition, it is illegal to set, haul, and/or maintain a trawling device in any of the channels, ponds, and/or rivers as follows: Quicksand Pond and channel, Tunipus Pond and channel, Briggs Marsh and channel, Round Pond and channel, Narrow River and channel, Point Judith Pond and channel, East Pond and channel, Potter Pond and channel, The Harbor of Refuge, Card Pond and channel, Green Hill Pond and channel, Trustom Pond and channel, and **Brightman Winnapaug** Pond and channel. ~~It shall be illegal to set, haul, and/or maintain a trawling device within Narrow River and channel, and within three hundred (300) yards of the seaward entrance to the river. In addition, it shall also be illegal to seine in Narrow River channel and within 300 yards of the seaward entrance to the river (RIMFC REGULATIONS) (Penalty – Part 3.03; (RIGL 20-3-3).~~

11.6 Seines, Fyke Nets, Trawling Devices, and Gill Net Regulations by Geographic Area:

11.6.1 Pawcatuck River and Little Narragansett Bay: Except as herein provided for Menhaden, it shall be illegal to set, maintain, or haul a gill net for any species in that portion of Rhode Island waters in the Pawcatuck River or Little Narragansett Bay and within one and one half (1 ½) miles south (true) and west (true) of Napatree Point. Gill netting for Menhaden will be permitted with a Size No. 1 net provided that the net is constantly tended by the individual setting the net, and provided that the net does not exceed one hundred (100) feet in length and contain a mesh size greater than three and three quarters (3 ¾) inches stretched). It shall be unlawful to retain any other species of fish captured in a Menhaden gill net in Little Narragansett Bay or the Pawcatuck River. With the exception of seining between February 1 and April 15 of each year, all netting (including Menhaden gill netting) shall be prohibited north of a line from Pawcatuck Rock to Thompson Point. ~~(RIMFC REGULATION) (Penalty – Part 3.3; (RIGL 20-3-3).~~

11.6.2 Point Judith Pond and Potter Pond: All netting, except licensed fish traps, shall be prohibited in the Harbor of Refuge and the southern portion of Point Judith Pond. This area shall be defined as including the water area encompassed by the Harbor of Refuge Breakwater and will be bounded on the north by a line from Strawberry Hill Point to High Point, and on the east by the Great Island Bridge. Gill netting will be prohibited in Point Judith Pond and channel,

East Pond and channel, Potter Pond and channel, the Interior Harbor of Refuge, and within one hundred (100) yards seaward of the Harbor of Refuge Breakwater. Otter trawling inside the Harbor of Refuge, Point Judith Pond, East Pond, and within one hundred (100) yards seaward of the Harbor of Refuge Breakwater shall be prohibited. It shall be illegal to set, haul, and/or maintain a seine in the southern portion of Point Judith Pond (as defined above), the Harbor of Refuge and within one hundred (100) yards seaward of the Harbor of Refuge Breakwater. In addition, in the northern portion of Point Judith Pond, all netting shall be prohibited in the Narrows bounded on the west by a line from Betty Hull Point to Short Point, and on the east by a line from Blue Rock Point to Old Cellar Point. All netting shall also be prohibited north of a line from Ram Point to Squally Point (~~RIMFC REGULATION~~) (~~Penalty – Part 1.16; (RIGL 20-1-16)~~).

11.6.3 Potter Pond and Channel: It shall be illegal to set, haul, and/or maintain a gill net or otter trawl in Potter Pond and channel. All netting in Potter Pond channel shall be prohibited between Gooseberry Island on the east end of the channel to the west end of Potter Pond channel. Netting will be permitted in Succotash Marsh. In the northern portion of Potter Pond, all netting shall be prohibited within one hundred (100) feet of the Captain's Brook (~~RIMFC REGULATION~~) (~~Penalty – Part 1.16; (RIGL 20-1-16)~~).

11.6.4 Narrow River: It shall be illegal to set, haul, and/or maintain a trawling device or gill net in Narrow River channel. All netting shall be prohibited in Narrow River channel (refer to definition section), and within three hundred (300) yards of the seaward entrance to Narrow River. In addition, all netting shall be prohibited in Narrow River between Middle Bridge and a point located eight hundred (800) feet north of Bridgetown Road Bridge (Route 138), within one hundred (100) feet north and south sides of the upper Narrows, and within one hundred (100) feet east and west of the seaward mouth of Gilbert Stuart Brook (~~RIMFC REGULATION~~) (~~Penalty – Part 1.16; (RIGL 20-1-16)~~).

11.6.5 Charlestown and Quonochontaug Ponds: Otter trawling in Charlestown Pond and Quonochontaug Pond is prohibited on Saturdays, Sundays, and official State holidays: New Year's Day, Martin Luther King Day, Memorial Day, Independence Day, V.J. Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas. Otter trawling is also prohibited in the areas defined as follows:

11.6.5-1 Charlestown Pond: South of a line between Marsh Point and Horseshoe Point on the Arnolds shore, west of a line between DEM markers on Marsh Point and Marsh Neck Point. The prohibited area is bounded on the west by a line between the east shore of the Foster Cove channel and a DEM marker on the barrier beach.

11.6.5-2 Quonochontaug Pond: South of a line running easterly from a DEM marker at the end of Quahaug Point to the northern end of Nopes

(Barn) Island. The area is bordered on the west by a line running south from Quahaug Point to a DEM marker on the barrier beach.

All fixed gear is prohibited in the Foster Cove Channel and in the narrows in Charlestown Pond. ~~(For a description of the Charlestown and Quonochontaug Channel areas, refer to the map section.)~~ Fyke nets are prohibited in both ponds between June 15 and September 15 annually ~~(RIMFC REGULATION) (Penalty - Part 3.3; (RIGL 20-3-3).~~

11.6.6 Upper Sakonnet River Marine Life Management Area: The area is defined as that portion of the Upper Sakonnet River which lies north of a line from McCurry Pt. in Portsmouth to the southern end of Jack's Island (so-called) in Tiverton; and that portion of the Sakonnet River which lies south of the Sakonnet River Bridge (Rt. 24) to the southern boundary.

~~(a) The Upper Sakonnet River Marine Life Management Area as defined in Part 3.6 **This area** is completely closed to trawling devices **(as defined in RIMFR Part I)** (RIMFC REGULATION) (Penalty - Part 3.3; (RIGL 20-3-3).~~

Statement of Intent: Nothing contained herein shall prohibit the ~~R.I. Marine Fisheries Council Department~~ from authorizing experimental net fisheries. The ~~R.I. Marine Fisheries Council Department~~ reserves the right to evaluate, approve, and/or reject netting proposals on an experimental basis for areas normally closed to netting.

11.7 Fyke Net Regulations: It shall be illegal to use a fyke net for the purpose of taking any fish if said fyke net leader exceeds one hundred (100) feet in length, has a stretched mesh greater than two and one half (2 1/2) inches, a leader which extends more than four (4) feet off the bottom, is not tended every forty-eight (48) hours, and which is within two hundred and fifty (250) feet of any other fishing net. Anyone setting a fyke net must register said gear with the Department ~~of Environmental Management.~~ ~~(RIMFC REGULATION) (Penalty - Part 3.3; (RIGL 20-3-3).~~

11.8 Use of Explosives: The use of explosives as a fishing device in the internal and territorial waters of the State of Rhode Island shall be prohibited. ~~(RIMFC REGULATION) (Penalty - Part 3.3; (RIGL 20-3-3).~~

11.9 Migratory Fish Regulations - Statewide: It shall be illegal to obstruct the free passage of anadromous or catadromous fish in any of the coastal rivers, streams, and/or estuaries of the State of Rhode Island. This shall include, but not be limited to, the following areas: Quicksand Pond, Tunipus Pond, Briggs Marsh, Round Pond, Warren River, Barrington River, Brickyard Pond, Seekonk River, Narrow River, Point Judith Pond, Potter Pond, Card Pond, Trustom Pond, Green Hill Pond, Charlestown Pond, Quonochontaug Pond, ~~Brightman Winnapaug~~ Pond, Pawcatuck River, Mastuxet Brook, King Tom Pond, Factory Pond, Mill Pond, Smelt Brook, Saugatucket River, Gilbert Stuart Brook, Wesquage Pond, Annquatucket River, Cocumscussoc Brook, Potowomut River, Maskerchugg River, Gorton Pond, Tuscatucket Brook, Spring Green

Pond, Pawtuxet River Woonasquatucket River, Moshassuck River, Seekonk River, Ten Mile River, Annawomscutt Brook, Mussachuck Creek, Runnie River, Kickemuit River, Sin and Flesh Brook, Nonquit Pond, Patchet Brook, Dunderry Brook, Cold Brook, Goose Neck Cove, Lily Pond, Almy Pond, Easton Pond Brook and Palmer River. It is illegal to take and/or possess Atlantic salmon (~~RIMFC REGULATION~~) (~~Penalty Part 3.3; (RIGL 20-3-3)~~).

11.10 Monthly Report of Commercial Fisheries: ~~The owner and/or operator of every boat, and/or the operator of any device licensed pursuant to this title for the taking or landing of marine organisms for commercial purposes in the state of Rhode Island, or any person issued a license by the director for such purposes, and any dealer of marine organisms licensed pursuant to this title shall, upon request of the department, make either a telephone report, or a written report or both. Written reports shall be made on forms furnished by the Department of environmental management and shall include catch and effort data and any other fishery data which may be required by the director. The reports shall not be made public and shall be kept only for statistical purposes. Failure to comply with the reporting requirements set out in this section or knowingly or willfully making a false report is prohibited. The license or permit of any person found in violation of this section or regulation duly promulgated thereto may be suspended for a period not to exceed sixty (60) days for each offense. No application for a license renewal shall be accepted from a person whose license or permit is currently under suspension or whose reports have not been submitted. Catch reports must be submitted at a time and in a format specified by the director, provided, however, that any such reporting requirements shall not be unreasonable and shall not create an undue burden (RIGL 20-4-5). [Penalty Part 11.11] Reference DEM's "Commercial and Recreational Saltwater Fishing Licensing Regulations".~~

11.11 Failure to File Monthly Reports: ~~(20-4-6 Repealed, 7/8/1999 see 20-4-5 above).~~
Repealed.

11.12 Marking of Traps: The owner of every trap, pot, or other stationary contrivance used for the taking of marine fish, shellfish, crustaceans, or other invertebrates being fished in the waters of this state, and the owner of any trap or pot for catching or cars, or other contrivance for keeping lobsters, shall mark each such trap, pot, or contrivance, together with the buoy which is attached thereto, with the name or names of the owners thereof or the person or persons using the same, and the license number or numbers of such person or persons. Every person failing to mark each trap as provided in this Section shall be fined not less than twenty dollars (\$20) nor more than five hundred dollars (\$500) for each such offense and all traps, pots, or other contrivances used contrary to the provisions of this and other Sections of this Chapter shall be seized by any officer engaged in the enforcement of this Chapter; and the property shall be forfeited to the state (RIGL 20-4-7).

11.12.1 Trap (pot) Limits: Each person utilizing traps or pots in the fishery for scup shall be permitted to fish up to fifty pots, and each vessel engaged in this fishery will be permitted to set up to fifty traps regardless of the number of

licenses on board.

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

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

The hinges or fasteners of one panel or door must be made of one of the following degradable materials.

- (a) un-treated hemp, jute, or cotton string 3/16" (4.8mm) or smaller;
- (b) magnesium alloy, timed float releases (pop-up devices) or similar magnesium alloy fasteners;
- (c) un-galvanized or uncoated iron wire of .094" (2.4mm) or smaller.

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

11.12.3 Buoy Lines: The use of floating line within eight (8) feet of the surface of the water is prohibited on all scup pots, traps, or similar contrivances. ~~(RIMFC REGULATION) (Penalty - Part 3.3; (RIGL 20-3-3).~~

11.13 Unauthorized Raising of Traps, Pots, and Devices: No person except the Director, ~~Enforcement Officers, and authorized technical personnel of the Department,~~ shall unduly disturb, lift, raise, molest, or remove any animal from a trap, pot, or other such device of a person licensed under this Title, without the written permission of that person (RIGL 20-4-8; ~~Penalty - Part 1.16; (RIGL 20-1-16).~~ *, unless the violation applies to night lobstering, then cite [Part 15.16; (RIGL 20-7-13)]*

11.14 ~~Upper Bay Dragging Regulations~~ Narragansett Bay Trawling Area: ~~The area is encompassed by the following lines: the southern boundary of the Upper Narragansett Bay otter trawling area is defined as a line from Spink Neck in the Town of North Kingstown to Pine Hill Point on Prudence Island, thence from Homestead Dock on the easterly shore of Prudence Island, thence northeasterly to Hog Island Shoal Light, and thence to the north abutment of the Mt. Hope Bridge in the Town of Bristol; the western boundary of the area is a line from Sandy Point in the City of Warwick to the southern tip of Warwick Point in the City of Warwick; the northern boundary of the area is a line from the dock at Rocky Point in Warwick to the southern tip of Poppasquash Point in Bristol, thence to~~

Hog Island Light, and thence to the northern abutment of the Mt. Hope Bridge in Bristol.

11.14.1 - Upper Bay Dragging Regulations: ~~Pursuant to RIGL 20-4-3 (see reg. 41.3),~~ The use of beam trawls, otter trawls, pair trawls, or any other mechanical trawling device ~~will also be~~ **is** allowed in the Upper Narragansett Bay Trawling Area, ~~as described in Part 3.6 (20), but only~~ between July 1st and November 1st **of each year, and but** not on weekends and legal State holidays during said period. ~~(RIMFC REGULATION) (Penalty - Part 1.16; (RIGL 20-1-16).~~

11.15 Licenses - Expiration: Unless otherwise in this Title specified, all licenses issued hereunder shall be annual and shall expire on ~~June 30~~ **December 31** of every year. (RIGL 20-2-14)

11.16 Commercial Gill Net Fishery - License or Permit Required: It shall be unlawful for any person to set, haul, and/or maintain a commercial gill net in the public waters of the State without first obtaining a license or permit as provided in § 20-2-26.1. Any person violating the provisions of this Section shall, upon conviction, be punished by a fine not exceeding five hundred dollars (\$500) or imprisonment of not more than one (1) year or by both. (RIGL 20-4-13)

11.17 Atlantic Herring Processing: No person may process Atlantic herring for purposes other than human consumption. Direct mealing of Atlantic herring is prohibited until further notice. ~~(RIMFC REGULATION) (Penalty - Part 3.3; (RIGL 20-3-3).~~

11.18 Narragansett Bay, Mt. Hope Bay, Sakonnet River, Charlestown and Quonochontaug Ponds Winter Mesh Size Regulations: This area is defined as all Rhode Island State waters which are north of the following lines: north of a line running from easternmost extension of Carrier Pier to Conanicut Pt. to the tips of the T Pier on Prudence Island to Carr's Point; and north of a line from Sachuest Pt. to Sakonnet Point; and all waters north of Quonochontaug and Charlestown Breachways. Except as provided for in Section 7.08-2 and 11.19, in that portion of the area described above which is open to trawling, it is illegal to utilize an otter trawl during the period November 1 to February 28, (inclusive) which has any mesh which measures less than 6" stretched mesh (measured inside knot to inside knot). ~~(RIMFC REGULATION) (Penalty - Part 3.3; (RIGL 20-3-3).~~

~~11.19: Repealed (4/8/2010)~~

~~11.19.2: Repealed~~

~~11.19.3: Repealed~~

~~11.19.4: Repealed (4/8/2010)~~

~~11.19.5: Repealed~~

~~11.19.6: Repealed (4/8/2010)~~

~~11.19.7: Repealed~~

~~11.19.8: Repealed~~

~~11.19.9: Repealed~~

11.2019 Regulations for Internal Waters Processing Applications for Atlantic herring and/or Atlantic mackerel: No application for Internal Waters Processing (IWP) of Atlantic herring and/or Atlantic mackerel shall be accepted after March 1, annually, unless accompanied by a legally binding contract for an IWP operation in Rhode Island waters involving Rhode Island fishing vessels. The Director may grant an allotment from Rhode Island's existing unallocated or un-contracted quota for a legally bound IWP application submitted after the March 1 deadline. ~~(RIMFC REGULATION) (Penalty- Part 3.3; (RIGL 20-3-3).~~

PUBLIC HEARING ITEM # 18

Addition of provision establishing locations and fishing prohibition for Artificial Reefs in the Narragansett Marine Life Management Area

11.20 Commercial Fishing Prohibition in the Designated Experimental Artificial Reef Locations in the Narragansett Bay Marine Life Management Area – It shall be unlawful to engage in any commercial fishing (as defined in 20-1-3) in areas designated as experimental reef locations in the Narragansett Bay Marine Life Management Area, as described in RIGL § 20-3-4. To designate the exact artificial reef locations, the designated areas will be marked at their four corners with buoys and are more specifically delineated as:

Site	Corner	Longitude (x)	Latitude (y)
Site 1	NE	-71.293920	41.573737
	NW	-71.294454	41.573669
	SE	-71.293829	41.573335
	SW	-71.294363	41.573267
Site 2	NE	-71.275013	41.611252
	NW	-71.275529	41.611137
	SE	-71.274860	41.610864
	SW	-71.275376	41.610750
Site 3	NE	-71.232079	41.646510
	NW	-71.232473	41.646794
	SE	-71.232460	41.646213

	SW	-71.232854	41.646498
Alternative Site 1	NE	-71.289538	41.575775
	NW	-71.290023	41.575961
	SE	-71.289784	41.575413
	SW	-71.290269	41.575598
Alternative Site 2	NE	-71.275875	41.615166
	NW	-71.276391	41.615051
	SE	-71.275722	41.614778
	SW	-71.276238	41.614663
Alternative Site 3	NE	-71.226263	41.652630
	NW	-71.226771	41.652782
	SE	-71.226466	41.652247
	SW	-71.226974	41.652399

11.21 VIOLATIONS FOR NON-COMPLIANCE: 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.

11.22 PENALTIES

11.22.1 Judicially imposed penalty for violations: Any person who operates an otter, beam, or pair trawl, or other mechanical trawling device without a license as provided in 20-4-3 shall, upon conviction, be fined five hundred dollars (\$500) for each offense or may be imprisoned not exceeding thirty (30) days, or both. In addition to any fines imposed for failure to secure a license, the person shall be subject to the same penalties as set forth in §20-1-16 should the person set a beam, pair, or otter trawl, or other mechanical trawling device in areas prohibited by §20-4-2 or rules adopted under this section. (RIGL 20-4-4)

11.22.2 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”.

11.23 APPEALS

11.23.1 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”.

11.23.2 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.

Rule **87**. EFFECTIVE DATE

The foregoing rules and regulations “Rhode Island Marine ~~Fisheries Statutes and~~ Regulations, **Part XI, Commercial Fisheries**” after due notice, are hereby adopted and filed with the Secretary of State this ~~10th day of January, 2014~~ to become effective 20 days from filing, unless otherwise indicated below, 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: ~~10/18/2013~~ **02/21/2014**
Public Hearing: ~~11/19/2013~~ **03/25/2014**
Filing date: ~~12/19/2013~~
Effective date: ~~01/08/2013~~

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