

**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



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 X
Equipment Restrictions**

Annotated for September 18, 2013 Public Hearing

~~May 6, 2005~~

AUTHORITY: These regulations are adopted pursuant to Chapters 42-17.1, 42-17.6, 20-4 through 20-10, and sections 20-1-2, 20-1-4, and 20-3-2 through 20-3-6, in accordance with Chapter 42-35 of the Rhode Island General Laws of 1956, as amended.

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**RHODE ISLAND MARINE FISHERIES
STATUTES AND REGULATIONS**

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**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 rules and regulations are promulgated pursuant to Chapter 42.17.1, 42-17.6, 20-1-2, 20-1-4, 20-3-2 thur 20-3-6, 20-4 thru 20-10 and in accordance with Chapter 42-35, Administrative Procedures, of the 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 X (#2406) 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 X - EQUIPMENT RESTRICTIONS**

10.1 [Repealed 1/9/2003]

10.2 Tongs -Tooth Gap and Mesh Size Regulations -- No person shall take shellfish or attempt to take shellfish with, or have in his possession while on the waters of this State, any tongs constructed with teeth which are less than one (1) inch apart on the bar or having heads constructed with wires, rods, crossbars, or reinforcement that will form a rectangle smaller than one (1) inch by two and one half (2 ½) inches. A tolerance of one sixteenth (1/16) inch will be allowed as a variance in construction.

For the purpose of this regulation, tongs shall be defined as any shellfishing implement constructed with heads attached to stales (handles) and pinned at a pivot point to allow the opening and closing of the basket mouth formed by the two.

(RIMFC REGULATION) [Penalty - Part 3.3; (RIGL 20-3-3)]

10.3 Bullrake Regulations -- No person shall take shellfish, or attempt to take shellfish, or have in his possession while on the waters of this State, with any bullrake, the teeth or tines and basket construction of which are closer than one (1) inch apart or having crossbars or reinforcement that will form a rectangle smaller than 1" X 2 ½". A tolerance of one sixteenth (1/16) of an inch less than the allowable limit will be permitted as a variance in construction.

For the purpose of this regulation, a bullrake shall be defined as any curved metal instrument or basket with four (4) or more metal tines (teeth) which is primarily used to harvest quahaugs. (RIMFC REGULATION) [Penalty - Part 3.3; (RIGL 20-3-3)]

10.3.1 Use of Tongs and Bullrakes operated by Mechanical Power – Power hauling of shellfish apparatus as defined in Sections 1.3, 10.2, and 10.3 of the RIMFC regulations, and the taking of shellfish in such harvesting apparatus is permitted provided such use is consistent with the following:

- A. No person shall use any power hauling equipment.**
 - 1. For any purpose other than the removal and retrieval of bullrakes and tongs from the benthic sediments;**
 - 2. During such time when bay quahaugs and oysters are being gathered into the bullrakes and tongs; or**
 - 3. In waters where such use has been prohibited by the RIMFC.**

- B. No person shall use any power hauling equipment in the operation of bullrakes and tongs with dimensions exceeding any of the following:**
- 1. Maximum width of thirty-one and one-half inches (31-1/2") measured along a line parallel to the tooth bar;**
 - 2. Maximum tooth length of four and one-half (4-1/2") inches; or**
 - 3. Maximum basket depth of twelve inches (12"), measured along a line perpendicular to the tooth bar and extending from the tooth bar to any point on the basket.**
- C. Possession of bullrakes and tongs in excess of the size restrictions specified in Section 10.3.1(B) shall be prohibited aboard vessels equipped with any power hauling equipment.**
- D. Except as required for safety or to avoid property loss, no vessel involved in the harvest of bay quahaugs or oysters by use of bullrakes or tongs, may be moved or propelled by any source of mechanical power at any time when any bullrakes or tongs operated from such vessel are submerged in the waters of the state.**

(RIMFC REGULATION) [Penalty - Part 3.3; (RIGL 20-3-3)]

10.4 Quahaug Diving Baskets -- No commercially licensed diver shall take or attempt to take quahaugs from the waters of the State of Rhode Island with a "diver's" quahaug harvesting basket, bag, or combination of basket and bag, or similar device whose bar spacing is less than one inch by two and one half (1" X 2 1/2") with a one sixteenth inch (1/16") tolerance for construction, and whose bag mesh on the harvesting device is less than two (2) inches when measured on the stretch (from inside of knot to inside of the knot.) There will be an allowance of one eighth (1/8) inch for variance in the twine. The bag shall be hung on the square so that when held by the mouth, the twine forms fully opened squares.
(RIMFC REGULATION) [Penalty - Part 3.3; (RIGL 20-3-3)]

10.5 Escape Vent Sizes - Penalty -- Effective June 1, 1999, it shall be unlawful to fish for or take lobsters by use of a lobster trap within the territorial waters of the State of Rhode Island unless the trap is equipped with:

Subsection I

- A. A rectangular escape vent with an unobstructed opening not less than 1 - 15/16 inches (49.2mm) by five and three quarters (5 - 3/4) inches (146mm),**
OR
- B. Two circular escape vents with an unobstructed opening not less than 2 - 7/16 inches (61.9mm)] in diameter,**
OR
- C. An unobstructed gap caused by separating both ends of a bottom lath in the parlor section 1 - 15/16 inches (49.2mm) from the bottom,**
OR
- D. An unobstructed gap caused by separating both ends of two vertical laths on the end of the parlor section by 1 - 15/16 inches (49.2mm),**

OR

E. An unobstructed gap created by cutting wires in a wire trap in such a manner as to meet the minimum size and number of vents required under Paragraphs A and B.

F. Lobster traps not constructed entirely of wood must contain a ghost panel with the following specifications:

1. The opening to be covered by the ghost panel must be rectangular and shall not be less than three and three quarter (3 - 3/4) inches (9.53 cm) by three and three quarter (3 - 3/4) inches (9.53 cm).
2. The panel must be constructed of, or fastened to the trap with one of the following untreated materials: wood lath, cotton, hemp, sisal, or jute twine not greater than three-sixteenths (3/16) inch (0.48 cm) in diameter, or non-stainless uncoated ferrous metal not greater than three thirty-seconds (3/32) of an inch (0.24 cm) in diameter.
3. The door of the trap may serve as the ghost panel if fastened with a material specified in previous paragraph.
4. The ghost panel must be located in the outer parlor(s) of the trap and not the bottom of the trap.

Subsection II

The vent or gap shall be: installed or made in the parlor section on the sides or end panel. No horizontal rectangular vent or gap or circular vent shall be located more than 3 inches from the bottom sill of the trap. Traps equipped with multiple parlor sections must adhere to the escape vent requirements specified above in each parlor section. Any fisherman not complying with the provisions of Section 1 or Section 2 shall be fined not more than twenty dollars (\$20) for each trap not conforming to the specifications. (RIMFC REGULATION) [Penalty - Part 15.12 or 1.16; (RIGL 20-1-16)]

10.5.1 Maximum Trap Size -- It shall be unlawful to place, set, keep, maintain, supervise, lift, raise, or draw in from any of the waters in the jurisdiction of this state, or cause to be placed, set, kept, maintained, supervised, lifted, raised, or drawn in from any of those waters any pot or other fixed gear contrivance designed or adapted for the catching or taking of lobsters with a volume greater than 22,950 cubic inches.

10.5.2 Trap Limit/Reduction Schedule -- Effective June 1, 1999, it shall be unlawful for any person licensed under this chapter to place, set, keep, maintain, supervise, lift, raise, or draw in from any of the waters in the jurisdiction of this state any pot or other fixed gear contrivance designed or adapted for the catching or taking of lobsters which exceeds the trap limits allowed by the following schedule:

6/1/1999 - 1200 traps per vessel
6/1/2000 - 1000 traps per vessel
6/1/2001 - 800 traps per vessel

10.5.3 Penetrating Devices -- It shall be unlawful for any person to use a spear, gig, gaff, or other penetrating device to harvest lobsters.

10.6 General State Marking, Setting, and Tending Requirements. -- The following general state marking, setting, and tending requirements shall apply to all gill nets set, hauled, and/or maintained within Rhode Island waters.

10.6.1 Marking Requirement: Both the near shore and offshore ends of all gill nets must be marked with an orange or fluorescent orange bullet shaped buoy with a size of 9 x 16 inches and clearly marked with the letters "GN" with a minimum letter height of three (3) inches. No person shall set, haul, or maintain a gill net in Rhode Island waters, unless such net shall be marked, together with the buoys which are attached thereto, with the name and license number of said person.

10.6.2 Tending Requirement: Each gill net must be hauled once each day (24 hour period - 12:00 midnight to 12:00 midnight).

10.6.3 Distance from Fish Trap: It shall be illegal to set, haul, or maintain a gill net within three thousand (3,000) feet of a fish trap licensed by the R.I. Department of Environmental Management.

10.6.3 Floating/Bottom Tending Gill Nets: No floating gill net may be set within Rhode Island waters unless constantly tended. A net will be deemed constantly tended if the person setting the net is within one hundred (100) feet of the net at all times. If any portion of the gill net is exposed at the surface, the net will be judged a floating gill net. With the exception of constantly tended nets, only bottom tending gill nets shall be set in Rhode Island waters. For purposes of this regulation, a bottom tending gill net shall be defined as any gill net, anchored or otherwise, which is fished on or near the bottom or which is fished in the lower one third (1/3) of the water column.

10.6.4 Mesh Size: No bottom tending gill net shall have a mesh size smaller than five (5) inches stretched mesh, except as provided in 10.7 and 13.5. (RIMFC REGULATION) (RIGL 20-4-12) [Penalty - Part 3.3; (RIGL 20-3-3)]
NOTE: For a full description of all gill net regulations, refer to Part XIII.

10.7 Gill Netting for Bait -- It is illegal to set, haul, and/or maintain a gill net for bait so as to obstruct the free passage of fish in the State of Rhode Island coastal waters, streams, rivers, or bays. It is illegal to set, haul, and/or maintain a bait gill

net in the Pawcatuck River north of a line from Pawcatuck Rock to Thompson Point. A Size No. 1 bait gill net may be set, hauled, or maintained in the marine environment in any river, stream, or bay in the State of Rhode Island with the exception of the Pawcatuck River north of a line from Pawcatuck Rock to Thompson Pt. (RIMFC REGULATION) [Penalty - Part 3.3; (RIGL 20-3-3)]

Size No. 1 -- The total length of the bait gill net may not exceed one hundred (100) feet, nor may the mesh size be greater than three and three quarters (3 3/4) inches (stretched). Anyone setting a Size No. 1 gill net for bait must be within one hundred (100) feet of the net at all times. The net must be clearly labeled with the name of the person setting or tending the net. It is illegal to possess any salmon or striped bass while gill netting for bait in a prohibited area (refer to prohibited gill net geographic areas). (RIMFC REGULATION) [Penalty - Part 3.3; (RIGL 20-3-3)]

10.8 Dredging for Surf Clams Gear Restrictions - The following gear restrictions shall apply to vessels fishing in the territorial waters of Rhode Island for surf clams:

10.8.1 It is unlawful for any vessel to operate with any hydraulic dredge with a blade, knife, or manifold which is greater than forty-eight (48) inches in maximum width.

10.8.2 It is unlawful for any vessel to operate more than one dredge while harvesting surf clams.

10.9 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 it shall be illegal to set a fyke net within two hundred and fifty (250) feet of any other fishing net. Anyone setting a fyke net must register said gear with the R.I. Department of Environmental Management. (RIMFC REGULATION) [Penalty - Part 3.3; (RIGL 20-3-3)]

FYKE NETS PROHIBITED IN CHARLESTOWN AND QUONOHONTAUG PONDS BETWEEN JUNE 15 AND SEPTEMBER 15 ANNUALLY.

FYKE NETS PROHIBITED IN CHANNEL AREAS OF CHARLESTOWN POND (SEE MAP). (RIMFC REGULATION) [Penalty - Part 3.3; (RIGL 20-3-3)]

10.10 Stowage of nets -- Vessels possessing trawl devices while harvesting summer flounder, scup, black sea bass, or winter flounder, in excess of the limits specified in R.I.M.F.C. regulations may have nets with mesh less than the minimum size specified in the regulations provided that the net is stowed and is not available for immediate use in accordance with this section. A net that

conforms to one of the following specifications and that can be shown not to have been in recent use is considered to be "not available for immediate use".

10.10.1 A net stowed below deck, provided:

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

10.10.2 A net stowed and lashed down on deck, provided:

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

10.10.3 A net that is on a reel and is covered and secured, provided:

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

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

(RIMFC REGULATION [Penalty - Part 3.3; (RIGL 20-3-3)]

10.11 Trawl Vessel Gear Restrictions - Minimum Mesh Size

10.11.1 Scup - Owners or operators of otter trawl vessels possessing:

500 pounds or more of scup from November 1 through April 30; or
200 pounds or more of scup from May 1 through October 31,
may only fish with nets that have a minimum mesh size of five (5) inches diamond (inside measure) or square mesh with a minimum length of seventy-five (75) meshes from the terminus of the net. For nets with less than seventy-five (75) mesh codends, the entire net will be five (5) inch minimum size diamond or square mesh.

10.11.2 Black sea bass - Owners or operators of otter trawl vessels possessing:

500 pounds or more of black sea bass, from January 1 through March 31; or
100 pounds or more of black sea bass from April 1 through December 31,
may only fish with nets that have a minimum mesh size of 4.5 inches diamond

mesh. Inside measure, applied throughout the codend for at least 75 continuous meshes forward of the terminus of the net, or, for trawl nets with codends (including an extension) less than 75 meshes the trawl net must have a minimum mesh size of 4.5 inches diamond mesh throughout.

(RIMFC REGULATION) [Penalty - Part 3.3 (RIGL 20-3-3) (RIGL 20-6-29)]

Public Hearing Item #7: Amendments to the RI Marine Fisheries regulations “Part X - Equipment Restrictions”.

10.12 Trawling Ground Gear Roller-Regulations -- The use of rollers, rockhoppers or discs greater than ~~18"~~ 12 inches in diameter is prohibited ~~while in possession of scup or black sea bass~~ while fishing in Rhode Island waters. (RIMFC REGULATION) [Penalty - Part 3.3 (RIGL 20-3-3) (RIGL 20-6-29)]

10.13 Recreational use of nets - Bait -- Marine species may lawfully be taken for personal use (not for sale) with nets, provided that all existing minimum size and possession limit restrictions for the species possessed are adhered to. A two-quart per person possession limit is allowed for all unregulated marine species.

Beach seines or other nets, where allowed for the recreational harvest of marine species shall not exceed four (4) feet in depth and twenty (20) feet in length. (RIMFC REGULATION) [Penalty - Part 3.3 (RIGL 20-3-3) (RIGL 20-6-29)]

10.14 Atlantic Herring - Vessel Size and Horsepower -- No vessel harvesting Atlantic herring in the Atlantic coast herring fishery shall exceed 165 feet in length overall, and 3,000 horsepower. (RIMFC REGULATION) [Penalty - Part 3.3 (RIGL 20-3-3) (RIGL 20-6-29)]

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 ~~6th day of May, 2005~~ **(insert new date)** to become effective 20 days from filing, unless otherwise indicated, in accordance with the provisions of Chapters 20-1-2, 20-1-4, 20-3-2 through 20-3-6, 20-4 through 20-10, 42-35, 42-17.1, 42-17.6 of the General Laws of Rhode Island of 1956, as amended.

~~W. Michael Sullivan, PhD~~ **Janet L. Coit**
~~Acting Director~~ **Director**

Notice Given: ~~02/14/2005~~ **8/XX/2013**
Public Hearing: ~~03/14/2005~~ **9/18/2013**
Filing date: ~~05/06/2005~~
Effective date: ~~05/26/2005~~

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