RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

PUBLIC NOTICE

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. Proposal to continue/expand/modify the summer flounder sector allocation program in 2010
2. Proposed changes to the Recreational Summer Flounder Management Plan
3. Proposed changes to the Recreational Scup Management Plan
4. Proposed changes to the Commercial Floating Fish Trap Scup Management Plan
5. Proposed changes to the Commercial Tautog Management Plan
6. Proposed changes to the Recreational Tautog Management Plan
7. Proposed changes to the Recreational Black Sea Bass Management Plan
8. Proposed changes to the Narragansett Bay Menhaden Management Plan
9. Proposed changes to the General Category Commercial Striped Bass Management Plan
10. Proposed changes to the Floating Fish Trap Commercial Striped Bass Management Plan
11. Proposed changes to the Recreational Striped Bass Management Plan
12. Proposed changes to the Winter Flounder Management Plan
13. Proposed changes to the Weakfish Management Plan

The public hearing will commence at 6:00 PM on Tuesday, February 23, 2010 in the University of Rhode Island Graduate School of Oceanography, Corless Auditorium, South Ferry Road, Narragansett, RI 02882. The hearing room is handicap accessible. A taped record of the hearing will be made and the DEM will provide interpreter services for the hearing impaired, provided such services are requested at least 48 hours prior to the hearing date. A request for this service can be made in writing or by calling (401) 222-6800 or TDD (401) 831-5508. Written comments concerning the regulations proposed for promulgation by the DEM may also be submitted to the Division of Fish and Wildlife, 3 Fort Wetherill Road, Jamestown, RI 02835 no later than 12:00 p.m. on February 23, 2010.

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 January 22 through February 23, 2010 by mail or at the offices of the Division of Fish and Wildlife located at 4808 Tower Hill Road, Wakefield, RI 02879 and 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 address: http://www.dem.ri.gov/topics/mftopics.htm

W. Michael Sullivan, PhD
Director
Department of Environmental Management

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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

Part XII
Striped Bass

Annotated 1/20/2010

~~**June 17, 2009**~~

AUTHORITY: These regulations are adopted pursuant to Chapters 42-17.1, 42-17.6, 42-35, and 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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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 efficiently manage the marine resources of Rhode Island.

AUTHORITY

These regulations are adopted pursuant to Chapters 42-17.1, 42-17.6, and 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.

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 XII** shall be superseded. However, any enforcement action taken by, or application submitted to, the Department prior to the effective date of these Rules and Regulations shall be governed by the Rules and Regulations in effect at the time the enforcement action was taken, or application filed.

PART XII - STRIPED BASS

Public Hearing Item 11 – Proposed changes to the Recreational Striped Bass Management Plan:

Option 1 – Status Quo

12.1 Striped Bass Size/Possession Limits/Season in the Recreational Striped Bass Fisheries -- Except as provided in Parts 12.3 and 12.5, no person shall possess in Rhode Island any striped bass which measures less than twenty-eight inches (28") in total length, whether caught within the jurisdiction of this State, or otherwise. Except as provided in Parts 12.3 and 12.5 no person shall possess, per calendar day, more than two (2) striped bass, whether caught within the jurisdiction of Rhode Island or otherwise. There is no closed season for striped bass. Compliance with the possession limit aboard vessels will be determined by dividing the number of fish onboard a vessel by the number of recreational fishermen onboard said vessel. (RIMF REGULATION) [Penalty Part 12.2; (RIGL 20-4-11)

12.2 Striped Bass Violations - Penalties -- Any person, firm, or corporation shall be fined not more than fifty dollars ($50) for each striped bass taken, possessed, sold, possessed for sale, or offered for sale in violation of the provisions of this Chapter. In addition to the fine, the fish trap license of the person, firm, or corporation violating the second provision of § 20-4-12 of this Chapter shall be suspended for a period of one (1) year. (RIGL 20-4-11)

12.3 Striped Bass Size/Possession Limits in the Commercial Striped Bass Fisheries -- Except as provided in Part 12.5, any person meeting the requirements of RIGL §§ 20-2-26, or 20-2-27, or 20-2-28.1, shall be allowed to take or possess, whether caught within the jurisdiction of this state or otherwise, striped bass which measure thirty four (34) inches or greater in total length. Except as provided for in Part 12.5 or 12.6, no person shall in any manner take and/or possess in Rhode Island more than the allowable limit established by the Rhode Island Department of Environmental Management. When the Division of Fish and Wildlife has determined that the annual quota established by the Atlantic States Marine Fisheries Commission (ASMFC) has been filled, the commercial sale of striped bass will terminate and the season will be closed. A notice of the closure will be submitted to the Secretary of State to be effective upon filing.

Public Hearing Item 9 – Proposed changes to the General Category Commercial Striped Bass Management Plan:

Option 1 – Status Quo

The following seasons and possession limits are established for commercial striped bass fishermen:

January 1 – May 31	**The commercial fishery will be CLOSED from January 1 through May 31, annually.**
June 1 – August 31	**Seventy-five percent (75%) of the commercial quota will be available from June 1 – August 31. The possession limit will be five (5) fish per vessel per calendar day. The fishery will be closed in each calendar week from 12:00 AM Friday until 11:59 PM Saturday during this sub period. There will be no commercial possession or sale of striped bass on these days for non floating trap net commercial fishermen. The fishery will close once seventy-five percent (75%) of the commercial quota is projected to be harvested if prior to August 31.**
September 13– December 31	**Twenty-five percent (25%) of the commercial quota will be available from September 13 through December 31. The possession limit will be five (5) fish per vessel per calendar day. The fishery will be closed in each calendar week from 12:00 AM Friday until 11:59 PM Saturday during this sub period. There will be no commercial possession or sale of striped bass on these days for non floating trap net commercial fishermen. The fishery will close when the entire commercial quota is projected to be harvested.**

Option 2 – Modify June start date - (Striped Bass AP consensus option)

The following seasons and possession limits are established for commercial striped bass fishermen:

January 1 – May 31	**The commercial fishery will be CLOSED from January 1 through May 31, annually.**
June ~~1~~ 6 – August 31	**Seventy-five percent (75%) of the commercial quota will be available from June ~~1~~ 6 – August 31. The possession limit will be five (5) fish per vessel per calendar day. The fishery will be closed in each calendar week from 12:00 AM Friday until 11:59 PM Saturday during this sub period. There will be no commercial possession or sale of striped bass on**

	these days for non floating trap net commercial fishermen. The fishery will close once seventy-five percent (75%) of the commercial quota is projected to be harvested if prior to August 31.
September 13–December 31	**Twenty-five percent (25%) of the commercial quota will be available from September 13 through December 31. The possession limit will be five (5) fish per vessel per calendar day. The fishery will be closed in each calendar week from 12:00 AM Friday until 11:59 PM Saturday during this sub period. There will be no commercial possession or sale of striped bass on these days for non floating trap net commercial fishermen. The fishery will close when the entire commercial quota is projected to be harvested.**

In addition, if Fish and Wildlife determines that the quota will be exceeded or will not be met before the end of the fall season, Fish and Wildlife may adjust that catch rate accordingly on or after September 15, annually. If on November 1, any of the floating fish trap quota remains, including the 10,000 pound floating fish trap quota set aside, that poundage will be committed to a general category available to the entire commercial fishery.

12.4 Commercial Striped Bass Tags -- No striped bass may be sold unless it has been properly identified with a special tag provided by Fish and Wildlife. Fish and Wildlife may designate tagging agents as appropriate. All designated tagging agents shall keep and maintain the required forms and logs specified by Fish and Wildlife. (RIMFC REGULATIONS) [Penalty - Part 3.3; (RIGL 20-3-3)]

12.5 Special Striped Bass Quota - Trap Net -- During a single calendar year Rhode Island floating trap net companies licensed and operating under §20-2-26 shall be allowed to harvest and market not more than forty percent 39% of the annual Rhode Island commercial quota established in Part 12.3. These striped bass must be at least twenty-six inches (26") total. Each individual fish shall be immediately marked with tags supplied by Fish and Wildlife. All trap net companies shall keep daily records of striped bass landings. Weekly summaries of daily landings shall be submitted to Fish and Wildlife. When Fish and Wildlife has determined that the annual quota allocated to floating fish traps has been reached the trap net harvest of striped bass will terminate. A notice terminating the fishery will be filed with the Secretary of State to be effective upon filing.

Public Hearing Item 10 - Proposed changes to the Floating Fish Trap Commercial Striped Bass Management Plan:

Option 1 – Status Quo (Striped Bass AP consensus option)

The following seasons are established for the commercial trap net fishery –

January 1 – August 26	**One hundred percent (100%) of the floating trap quota shall be available from January 1 through August 26 minus a 10,000 pound set aside. Once eighty percent (80%) of the seasonal allocation is projected to be harvested the possession limit shall be 500 pounds per fish trap licensee per calendar day.**
August 27 -- December 31	**The 10,000 pound floating fish trap quota set aside shall be available from August 27 through December 31 with no limit on possession. The fishery shall close once the entire floating trap quota is harvested.**

(RIMF REGULATIONS) [Penalty - Part 3.3; (RIGL 20-3-3)]

Option 2 – Repeal the set aside and trip limit regulations – (RI Fish Trap Association Proposal)

~~**The following seasons are established for the commercial trap net fishery –**~~

~~**January 1 – August 26**~~	~~**One hundred percent (100%) of the floating trap quota shall be available from January 1 through August 26 minus a 10,000 pound set aside. Once eighty percent (80%) of the seasonal allocation is projected to be harvested the possession limit shall be 500 pounds per fish trap licensee per calendar day**~~**.**

~~August 27 -- December 31~~	~~The 10,000 pound floating fish trap quota set aside shall be available from August 27 through December 31 with no limit on possession. The fishery shall close once the entire floating trap quota is harvested~~.

Floating Fish Trap operators will be required to report landings of striped bass to SAFIS every Monday, Wednesday, and Friday, of every week that the trap is in operation.

(RIMF REGULATIONS) [Penalty - Part 3.3; (RIGL 20-3-3)]

12.6 Gill Net Prohibition for Striped Bass -- No person shall take or possess any striped bass while gill netting, or while hauling a gill net (RIMFC REGS) [Penalty - Part 3.3; (RIGL 20-3-3)]

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

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

12.7.2 Season Closure All gill netting is prohibited within 50 yards of the Rhode Island coastline (mean high water line) during the period October 15 - December 31 annually. (RIMFC REGULATION) [Penalty - Part 3.3; (RIGL 20-3-3)]

12.8 Hybrid Striped Bass Cultured Striped Bass

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

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

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

12.8.3 **Each fish or fish product shall have affixed to it a tag bearing the same information listed in (2).**

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

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

12.8.6 **The consignee of each subsequent sale shall retain a copy of the bill of lading or similar accountable document for 1 year, and make it available to the Department upon request.**

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

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 ~~18th day of June, 2009~~ 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.

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W. Michael Sullivan, PhD
Director, Department of Environmental Management

Notice Given:	N/A
Public Hearing:	N/A
Filing date:	~~06/18/09~~
Effective date:	~~06/17/09~~