

**RHODE ISLAND  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
PUBLIC NOTICE CONCERNING PROPOSED REGULATORY CHANGES**

Pursuant to the provisions of Chapter 42-17.1 and Title 20 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 I – RI Marine Fisheries Regulations – Legislative Findings” to address harvest methods and habitat impacts by incorporating new definitions, and to update regulatory citations for consistency with certain statutory changes;
- 2) Amendments to “Part VI – RI Marine Fisheries Regulations – Dredging for Shellfish” to address harvest methods by clarifying dredging regulations and identifying applicable marine species, and to update regulatory citations for consistency with certain statutory changes;
- 3) Amendments to “Part XVIII – RI Marine Fisheries Regulations – Shellfish Grounds” to prevent the operation of devices capable of harvesting shellfish in polluted areas and to update regulatory citations for consistency with certain statutory changes;
- 4) Amendments to “Part III – RI Marine Fisheries Regulations – Marine Fisheries Council” to establish Marine Life Management Areas and to update regulatory citations for consistency with certain statutory changes;
- 5) Amendments to “Part IV – RI Marine Fisheries Regulations – Shellfish” to clarify what species may be harvested under a shellfish dredging license and to update regulatory citations for consistency with certain statutory changes;
- 6) Amendment to the Narragansett Bay Menhaden Management Plan;
- 7) Amendments to the Lobster Management Plan for mandatory v-notching of certain female lobsters in LCMA 2 and establishing a minimum size increase for LCMA 3 as conservation equivalency methods for complying with Addendum XVII to Amendment 3 of the ASMFC Interstate Fishery Management Plan, as well as adopting certain technical revisions to update language and remove expired language;
- 8) Amendments to the Spiny dogfish management plan; and
- 9) Amendments to “Part III – RI Marine Fisheries Regulations – Marine Fisheries Council” to allow more flexibility to adjust seasons in order to effectively comply with federal fishery management plans.

The public hearing will commence at 6:00 PM on Wednesday, April 3, 2012 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 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 April 3, 2012.

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 March 2, 2012 through April 3, 2012 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/pn040312.htm>.



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 XVI Menhaden Regulations**



Annotated 2-20-2012  
(Section 16.2.6; Page 6)

(And changes made to update regulations for consistency with  
Statutory changes made since regulations were last updated).

~~April 14, 2011~~

**AUTHORITY:** These regulations are adopted pursuant **Title 20** to Chapters 42-17.1, 42-17.6, **and 42-17.7**, ~~20-1-2, 20-1-4, 20-3-2 thru 20-3-6, 20-4 thru 20-10~~, and in accordance with **Chapter 42-35, Administrative Procedures**, 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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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 Title 20 to Chapters 42-17.1, 42-17.6, and 42-17.7, 20-1-2, 20-1-4, 20-3-2 thru 20-3-6, 20-4 thru 20-10, and in accordance with Chapter 42-35, Administrative Procedures, 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 XVI shall be superseded.

**R.I. Marine Fisheries Statutes and Regulations  
PART XVI - MENHADEN REGULATIONS**

**16.1 Prohibition on the Harvesting of Menhaden for Reduction Processing** – The taking of menhaden for reduction (fish meal) purposes is prohibited in Rhode Island waters. A vessel will be considered in the reduction (fish meal) business if any portion of the vessel’s catch is sold for reduction. (RIMF REGULATIONS) [Penalty - Part 3.3; (RIGL 20-3-3)]

**16.2 Narragansett Bay Menhaden Management Area** – Narragansett Bay, in its entirety, is designated a Menhaden Management Area. The area shall include the east and west passages of Narragansett Bay, Mt. Hope Bay, and the Sakonnet River, and be bordered on the south by a line from Bonnet Point to Beavertail Point to Castle Hill Light. The southern boundary further extends from Land's End to Sachuest Point and then to Sakonnet Light. The following regulations govern all commercial menhaden operations conducted in the Narragansett Bay Menhaden Management Area.

**16.2.1 Gear Restrictions** --The use of purse seines shall be permitted only in accordance with the following terms and conditions:

(A) All nets shall be less than 100 fathoms (600 feet) in length and less than 15 fathoms (90 feet) in depth.

(B) All nets shall be marked with fluorescent-colored float buoys, distinguishable from the other float buoys on the net, at intervals of 50 feet.

(C) Annually, prior to use, all nets shall be inspected and certified as being in conformance with the provisions of this section by the DEM Division of Law Enforcement. Once inspected and certified, a net may be used throughout the duration of the calendar year in which it was inspected, provided that it is not altered with regard to any of the provisions of this section. Any net that is altered with regard to any of the provisions of this section must be re-inspected and recertified prior to use.

**16.2.2 Vessel Restrictions** – When engaged in the commercial menhaden fishery, vessels may not have a useable fish storage capacity greater than 120,000 pounds. Prior to the commencement of fishing, for any vessel not previously certified through this process, each vessel must be inspected by a certified marine surveyor and assessed with regard to its fish storage capacity. A document reflecting the assessment must be kept aboard the vessel at all times. Any vessel with a fish storage capacity greater than 120,000 pounds may only engage in the fishery if the excess capacity is rendered unusable in accordance with the specifications set forth in the assessment.

### **16.2.3 - Possession Limits**

**(A )** When the commercial menhaden fishery opens, per section 16.2.5 of this part, the possession limit shall be 120,000 pounds per vessel per calendar day, per section 16.2.5. The possession limits may be modified by the DEM Division of Fish & Wildlife (DFW) on the basis of the estimated weekly standing stock of menhaden in the management area derived, in accordance with section 16.2.5, via approved scientific monitoring methods.

**(B)** No commercial menhaden fisher shall possess menhaden or otherwise engage in the taking of menhaden anytime on Saturday, Sunday, on any official state holiday, or prior to sunrise or following sunset.

**16.2.4 Reporting Requirements** -- In order to permit the Department of Environmental Management to monitor the fishery, any fisher intending to engage in the commercial menhaden fishery shall notify the DEM Division of Law Enforcement (DLE) at (401) 222-3070 prior to taking or coming into possession of menhaden in the management area. At the time that a fisher advises the DLE of his/her intent to harvest menhaden, the DLE shall notify said fisher of any modification which may have been established in the possession limit for menhaden. Each commercial menhaden fisher shall also contact the Division of Fish and Wildlife at (401) 423-1943 at the end of each trip to report the amount of menhaden in possession by the fisher in pounds and area fished.

### **16.2.5 Opening/Closure of Fishery Based on Biomass Estimates** –

**(A) Biomass “Floor.”** On an annual basis beginning every spring, the DFW, utilizing approved scientific monitoring methods, shall conduct regular estimates of the weekly standing stock of menhaden present in the management area. On the basis of those estimates, the DFW shall issue a notice when the estimated weekly standing stock reaches a threshold of 1,500,000 pounds, and the DFW shall open the commercial fishery, at an initial possession limit of 120,000 pounds per vessel per calendar day, when the estimated weekly standing stock reaches 2,000,000 pounds. If, at any time, the stock estimate drops below 1,500,000 pounds, the DFW shall close the commercial fishery until further notice.

**(B) Biomass “Ceiling.”** When 50% of the estimated weekly standing stock of menhaden stock present in the management area, above the minimum threshold amount of 1,500,000 pounds, is harvested, the DFW shall close the menhaden fishery until further notice.

**Public Hearing Item # 6 - Amendments to the Narragansett Bay Menhaden Management Plan**

**16.2.6 Permanent Closures** – **No fisherman harvesting menhaden in the permanent closed areas, as defined below, shall possess more than 200 menhaden per vessel per calendar day. In addition the following areas are permanently closed to the harvest method of purse seining for menhaden:**

**Providence River**

- All waters north of a straight line running from Rocky Point to Conimicut Light to Nayatt Point.

**Greenwich Bay**

- All waters in Greenwich Bay west of a line from the flag pole on Warwick Point to Sandy Point.

**16.2.7 [Repealed 4/2011]**

**16.2.8 Recreational Harvest of Menhaden** – **No recreational fisherman harvesting menhaden by any fishing method shall possess more than 200 menhaden per vessel per calendar day in any closed area of the menhaden management area as set forth above.**

## 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 ~~14<sup>th</sup> day of April, 2011~~ to become effective 20 days from filing, unless otherwise indicated below, 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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Janet L. Coit, Director  
Department of Environmental Management

Notice Given: ~~01/21/2011~~  
Public Hearing: ~~02/22/2011~~  
Filing date: ~~04/14/2011~~  
Effective date: ~~05/04/2011~~