

**RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

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) Amendments to the recreational striped bass management plan, and to update regulatory citations for consistency with certain statutory changes;
- 2) Amendments to the commercial general category striped bass management plan, and to update regulatory citations for consistency with certain statutory changes;
- 3) Amendments to the commercial floating fish trap striped bass management plan, and to update regulatory citations for consistency with certain statutory changes;
- 4) Amendments to the spiny dogfish management plan in order to come into compliance with federal requirements;
- 5) Amendments to the coastal sharks management plan in order to come into compliance with federal requirements;
- 6) Amendments to the lobster management plan for mandatory v-notching of certain female lobsters in LCMA 4 with a season closure from February 1 through March 31 annually, in order to come into compliance with federal requirements; and
- 7) Amendments to the Lobster management plan for mandatory v-notching of certain female lobsters in LCMA 5 with a season closure from February 1 through March 31 annually, in order to come into compliance with federal requirements.

The public hearing will commence at 6:00 PM on **Tuesday, February 19, 2013**, 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 February 19, 2013.

The Department has determined that small businesses may be adversely impacted by some of 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 18, through February 19, 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/pn021913.htm>.

Janet L. Coit, Director
Department of Environmental Management

Date Posted 01/18/2013

DEM/DFW February 19, 2013 Public Hearing
Table of Public Hearing Items and Proposals Included in
Part VII – Minimum Sizes of Fish/Shellfish

Public comment will be solicited on the following proposals:

Public Hearing Item #4 - Amendments to the spiny dogfish management plan in order to come into compliance with federal requirements: *(Section 7.15)*

Proposal #1 – Increase starting commercial possession limit to 4,000 pounds per vessel per calendar day.

Public Hearing Item #5 - Amendments to the coastal sharks management plan in order to come into compliance with federal requirements: *(Section 7.24)*

Proposal #1 – Adoption of ASMFC amendment to increase the commercial possession limit to the Coastal Sharks, Non-Sandbar Large Coastal Sharks (LCS) species group to 36 sharks per vessel per calendar day.



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 VII
Minimum Sizes of Fish/Shellfish**

Annotated Excerpts (1/11/2013)
(Sections 7.15 and 7.24)

~~December 12, 2012~~

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, Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
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**RHODE ISLAND MARINE FISHERIES
STATUTES AND REGULATIONS**

TABLE OF CONTENTS

RULE #1 PURPOSE.....	3
RULE #2 AUTHORITY	3
RULE #3 ADMINISTRATIVE FINDINGS	3
RULE #4 APPLICATION	3
RULE #5 REGULATIONS	Part VII, p 4 - 55
RULE #6 SEVERABILITY.....	3
RULE #7 SUPERSEDED RULES AND REGULATIONS	3
RULE #8 EFFECTIVE DATE PAGE.....	56

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 manage the marine resources of Rhode Island.

AUTHORITY

These rules and regulations are promulgated pursuant to Title 20, Chapters 42-17.1, 42-17.6, and 42.17.7, and in accordance with Chapter 42-35, Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

ADMINISTRATIVE FINDINGS

These administrative rules and regulations are based upon the need to modify existing regulations in accordance with Chapter 42-35, Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

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 VII** 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.

Excerpts from

**R.I. Marine Fisheries Statutes and Regulations
PART VII - MINIMUM SIZES OF FISH/SHELLFISH**

Public Hearing Item #4 - Amendments to the spiny dogfish management plan in order to come into compliance with federal requirements:

Proposal #1 – Increase starting commercial possession limit to 4,000 pounds per vessel per calendar day

7.15 Spiny dogfish

7.15.1 Commercial Season and Possession Limits – The commercial season shall extend from May 1 until April 30 of the following year. RI is currently designated as a state that is part of the Northern region. A Northern region quota for spiny dogfish will be established annually and shall be the most recent allocation by the Atlantic States Marine Fisheries Commission (ASMFC) and/or the Secretary of the U.S. Department of Commerce as published in the Federal Register, which is currently set at 58% of the coastwide quota. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than ~~3,000~~ **4,000** pounds of spiny dogfish. When notified that the quota in the Northern region has been harvested, or projected to be harvested, as determined by the National Marine Fisheries Service or the Atlantic States Marine Fisheries Commission, the Division of Fish and Wildlife shall file a notice with the Office of the Secretary of State prohibiting the commercial landings, harvest and possession of spiny dogfish in state waters for the remainder of the designated period.

(a) The Division is hereby authorized to enter into agreements with the other Northern Region States for the purpose of establishing seasons and possession limits governing the taking of spiny dogfish. Pursuant to the authority of Part III Section 3.2.1, the Division is further authorized to adjust season(s) and possession limits governing the taking of spiny dogfish as may be deemed necessary to comply with said agreements. The Division will consult with the Rhode Island state-water spiny dogfish fishers prior to negotiating the subject agreements.

7.15.2 Prohibition of Finning – Finning is defined as the act of taking a spiny dogfish, removing the fins, and returning the remainder of the spiny dogfish to the sea. Finning spiny dogfish shall be prohibited in all state waters. Vessels that land spiny dogfish must land fins in proportion to carcasses, with a maximum 5% fin to carcass ratio, by weight. Fins may be removed at sea, but the corresponding carcass must be retained. All fins and carcasses must be landed at the same time and in the same location.

RIMF REGULATIONS [Penalty – Part 3.3 (RIGL 20-1-16)]

Public Hearing Item #5 - Amendments to the coastal sharks management plan in order to come into compliance with federal requirements:

Proposal #1 – Adoption of ASMFC amendment to increase the commercial possession limit to the Coastal Sharks, Non-Sandbar Large Coastal Sharks (LCS) species group to 36 sharks per vessel per calendar day.

7.24 Coastal Sharks

7.24.1 – Commercial

7.24.1-1 Commercial Species Groupings - Species managed under the Atlantic States Marine Fisheries Commission (ASMFC) Interstate Fishery Management Plan (IFMP) for Atlantic Coastal Sharks shall be grouped into six commercial “species groups” for management purposes, hereafter referred to as: Prohibited Species, Research Species, Smooth Dogfish, Small Coastal Sharks, Non-Sandbar Large Coastal Sharks, and Pelagic Sharks. These groupings apply to all commercial shark fisheries in state waters.

7.24.1-2 Commercial Fishing Year - The commercial shark fishery shall operate on a January 1 through December 31 fishing year.

7.24.1-3 Commercial Possession Limits – Possession limits, quotas, and seasonal periods for commercial shark fisheries will be established annually either through the National Marine Fisheries Service (NMFS) or the Atlantic States Marine Fisheries Commission (ASMFC). In accordance therewith:

- a. Properly licensed commercial fishermen may possess any of the species of sharks listed in Table 7.1 below in the Smooth Dogfish, Small Coastal Sharks, Non-Sandbar Large Coastal Sharks and Pelagic Sharks species groups.
- b. There are no commercial trip limits or possession limits for Smooth Dogfish, or for the sharks listed in the Small Coastal Sharks and the Pelagic Species groups.
- c. No person shall possess more than ~~33~~ **36** sharks, per vessel per calendar day, regardless of species, from the Non-Sandbar Large Coastal Sharks species group.

Table 7.1 Sharks in the Smooth Dogfish, Small Coastal Sharks, Non-Sandbar Large Coastal Sharks, and Pelagic Species Groups.

Common Name	Scientific Name
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Smooth dogfish	
Smooth Dogfish	<i>Mustelus canis</i>
Small Coastal Sharks (SCS)	
Atlantic sharpnose	<i>Rhizoprionodon terraenovae</i>
Finetooth	<i>Carcharhinus isodon</i>
Blacknose	<i>Carcharhinus acronotus</i>
Bonnethead	<i>Sphyrna tiburo</i>
Non-Sandbar Large Coastal Sharks (LCS)	
Silky	<i>Carcharhinus falciformis</i>
Tiger	<i>Galeocerdo cuvier</i>
Blacktip	<i>Carcharhinus limbatus</i>
Spinner	<i>Carcharhinus brevipinna</i>
Bull	<i>Carcharhinus leucas</i>
Lemon	<i>Negaprion brevirostris</i>
Nurse	<i>Ginglymostoma cirratum</i>
Scalloped hammerhead	<i>Sphyrna lewini</i>
Great hammerhead	<i>Sphyrna mokarran</i>
Smooth hammerhead	<i>Sphyrna zygaena</i>
Pelagic Sharks	
Shortfin mako	<i>Isurus oxyrinchus</i>
Porbeagle	<i>Lamna nasus</i>
Common thresher	<i>Alopias vulpinus</i>
Oceanic whitetip	<i>Carcharhinus longimanus</i>
Blue	<i>Prionace glauca</i>

7.24.1-4 Transfer of Sharks - No person shall transfer sharks between vessels at sea.

7.24.1-5 Prohibition on the Possession of Sharks in the Prohibited and Research Species Groups – No person shall possess any species of sharks listed in Table 7.2 below in the Prohibited Species and Research Species groups, except in accordance with the provisions of section 7.24.1-8.

Table 7.2 Sharks in the Prohibited and Research Species Groups

Prohibited Species Group	
Common Name	Scientific Name
Sand tiger	<i>Carcharias taurus</i>
Bigeye sandtiger	<i>Odontaspis noronhai</i>
Whale	<i>Rhincodon typus</i>

Basking	<i>Cetorhinus maximus</i>
White	<i>Carcharodon carcharias</i>
Dusky	<i>Carcharhinus obscurus</i>
Bignose	<i>Carcharhinus altimus</i>
Galapagos	<i>Carcharhinus galapagensis</i>
Night	<i>Carcharhinus signatus</i>
Reef	<i>Carcharhinus perezii</i>
Narrowtooth	<i>Carcharhinus brachyurus</i>
Caribbean sharpnose	<i>Rhizoprionodon porosus</i>
Smalltail	<i>Carcharhinus porosus</i>
Atlantic angel	<i>Squatina dumeril</i>
Longfin mako	<i>Isurus paucus</i>
Bigeye thresher	<i>Alopias superciliosus</i>
Sharpnose sevengill	<i>Heptranchias perlo</i>
Bluntnose sixgill	<i>Hexanchus griseus</i>
Bigeye sixgill	<i>Hexanchus nakamurai</i>
Research Species Group	
Sandbar	<i>Carcharhinus plumbeus</i>

7.24.1-6 Quota Specification – It shall be unlawful for any person to possess any species of shark in state waters when the National Marine Fisheries Service (NMFS) prohibits the possession of that species in federal waters.

When notified that the quota set for any species of shark is harvested or projected to be harvested, as determined by the National Marine Fisheries Service or the Atlantic States Marine Fisheries Commission, the Division of Fish and Wildlife shall file notice with the Office of the Secretary of State prohibiting the commercial landings, harvest and possession of that species in state waters for the remainder of the designated period.

7.24.1-7 Commercial License – A person must hold a state commercial license in accordance with RIGL Chapter 20-2.1 in order to commercially land, harvest, possess, and sell sharks in state waters.

7.24.1-8 Display and Research of Sharks – No person shall possess, transport, sell or offer to sell any of the shark species listed in the Prohibited and Research Species Groups without the possession of a valid state collector’s permit obtained from the Division of Fish and Wildlife.

Any person granted a collector’s permit shall:

- a. Report to the Director, within 30 days after coming into possession of a shark. For each and every shark collected for research or display, the report to the Director shall include the following

information: species identification, length, weight, date and location where caught by latitude and longitude coordinates, and the gear used; and

- b. For each shark taken for live display, the holder of the permit shall also report to the Director annually, by December 31 of each year, for the life of the shark. The annual report shall include all of the information set forth in the original report to the Director pertaining to the sharks, as well as updated information on the length and weight of the shark.

7.24.1-9 Dealer Permit

- a. No person shall sell any shark species to a person or dealer who does not possess a state commercial dealer license issued pursuant to RIGL 20-2.1, and a federal Commercial Shark Dealer Permit issued by the National Marine Fisheries Service.
- b. No person shall purchase any shark species for sale or resale unless such person, possesses a state commercial dealer license issued pursuant to RIGL 20-2.1, and a federal Commercial Shark Dealer Permit issued by the National Marine Fisheries Service. *[Federal Commercial Shark Dealer Permits are open access and can be obtained by contacting the National Marine Fisheries Service Southeast Regional Office in St. Petersburg, FL at (727) 824-5326. Applications are available on the web at <http://sero.nmfs.noaa.gov/permits/permits.htm>].*

7.24.1-10 Authorized Commercial Gear – No person shall fish commercially for sharks in state waters by any method other than the following gear types:

- Rod & reel
- Handlines, which are defined as a mainline to which no more than two gangions or hooks are attached. A handline is retrieved by hand, not by mechanical means, and must be attached to, or in contact with, a vessel.
- Small Mesh Gillnets which are defined as having a stretch mesh size smaller than 5 inches
- Large Mesh Gillnets which are defined as having a stretch mesh size equal to or greater than 5 inches.
- Trawl nets.
- Shortlines which are defined as fishing lines containing 50 or fewer hooks and measuring less than 500 yards in length. A maximum of 2 shortlines shall be allowed per vessel.

- Pound nets/fish traps.
- Weirs.

7.24.1-11 Bycatch Reduction Measures – Vessels using shortlines and large-mesh gillnets to catch sharks must abide by the following bycatch regulation measures. Any vessels using shortlines or large-mesh gillnets that do not follow the following bycatch reduction measures are prohibited from possession, landing or selling any sharks.

a. Any vessel using a shortline shall:

- (1) use corrodible circle hooks, which are defined as non-offset hooks with the point turned perpendicularly back to the shanks; and
- (2) practice the protocols, and possess the federally required release equipment, for pelagic and bottom longlines for the safe handling, release, and disentanglement of sea turtles and other non-target species; and
- (3) have all captains and vessel owners federally certified in using, handling and release equipment. Captains and vessel owners can become certified by attending a Protected Species Safe Handling, Release, and Identification Workshop offered by NOAA. [Information on these workshops can be found at <http://www.nmfs.noaa.gov/sfa/hms/workshops/index.htm> or by calling the Management Division at (727) 824-5399.]

b. Any vessel using large-mesh gillnets, must use nets that are shorter than 2.5 kilometers.

7.24.1-12 Prohibition of Finning – Finning is defined as the act of taking a shark and removing its fins. Finning of sharks is prohibited in all state waters. All sharks, with the exception of smooth dogfish, possessed by commercial fishermen within state boundaries must have the tails and fins attached naturally to the carcass until landed. Fins may be cut as long as they remain attached to the carcass, by natural means, with at least a small portion of uncut skin. Sharks may be gutted and bled provided the tail is not removed. Sharks taken and possessed by commercial fishermen may have the heads removed, but no commercial fisherman shall fillet a shark at sea or otherwise cut a shark into pieces at sea.

Commercial fishermen may completely remove the fins of smooth dogfish from March through June of each year. If fins are removed, the total wet weight of the shark fins may not exceed 5 percent of the total dressed weight of smooth dogfish carcasses landed or found on board a vessel.

From July through February for the smooth dogfish fishery only, commercial fishermen may completely remove the head, tail, pectoral fins, pelvic (ventral) fins, anal fin, and second dorsal fin, but must keep the dorsal fin attached naturally to the carcass through landing. Fins may be cut as long as they remain attached to the carcass, by natural means, with at least a small portion of uncut skin. If fins are removed, the total wet weight of the shark fins may not exceed 5 percent of the total dressed weight of smooth dogfish carcasses landed or found on board a vessel.

7.24.2 - Recreational

7.24.2-1 Recreationally Permitted Species – Recreational fishermen may possess any of the species of sharks listed in Table 7.3.

Table 7.3 Recreationally Permitted Species List.

Recreationally PERMITTED Species	
Smooth Dogfish ₁	<i>Mustelus canis</i>
Atlantic sharpnose	<i>Rhizoprionodon terraenovae</i>
Finetooth	<i>Carcharhinus isodon</i>
Blacknose	<i>Carcharhinus acronotus</i>
Bonnethead	<i>Sphyrna tiburo</i>
Tiger	<i>Galeocerdo cuvier</i>
Blacktip	<i>Carcharhinus limbatus</i>
Spinner	<i>Carcharhinus brevipinna</i>
Bull	<i>Carcharhinus leucas</i>
Lemon	<i>Negaprion brevirostris</i>
Nurse	<i>Ginglymostoma cirratum</i>
Scalloped hammerhead	<i>Sphyrna lewini</i>
Great hammerhead	<i>Sphyrna mokarran</i>
Smooth hammerhead	<i>Sphyrna zygaena</i>
Shortfin mako	<i>Isurus oxyrinchus</i>
Porbeagle	<i>Lamna nasus</i>
Common thresher	<i>Alopias vulpinus</i>
Oceanic whitetip	<i>Carcharhinus longimanus</i>
Blue	<i>Prionace glauca</i>

Smooth dogfish are not regulated in federal waters and are not prohibited as a result.

7.24.2-2 Recreationally Prohibited Species -- No person fishing recreationally shall possess, in state waters any shark species that is not permitted to be taken in federal waters, as listed in Table 7.4.

Table 7.4 Recreationally Prohibited Species List.

Recreationally PROHIBITED Species	
Sandbar	<i>Carcharhinus plumbeus</i>
Silky	<i>Carcharhinus falciformis</i>
Sand tiger	<i>Carcharias taurus</i>
Bigeye sand tiger	<i>Odontaspis noronhai</i>
Whale	<i>Rhincodon typus</i>
Basking	<i>Cetorhinus maximus</i>
White	<i>Carcharodon carcharias</i>
Dusky	<i>Carcharhinus obscurus</i>
Bignose	<i>Carcharhinus altimus</i>
Galapagos	<i>Carcharhinus galapagensis</i>
Night	<i>Carcharhinus signatus</i>
Reef	<i>Carcharhinus perezii</i>
Narrowtooth	<i>Carcharhinus brachyurus</i>
Caribbean sharpnose	<i>Rhizoprionodon porosus</i>
Smalltail	<i>Carcharhinus porosus</i>
Atlantic angel	<i>Squatina dumeril</i>
Longfin mako	<i>Isurus paucus</i>
Bigeye thresher	<i>Alopias superciliosus</i>
Sharpnose sevengill	<i>Heptranchias perlo</i>
Bluntnose sixgill	<i>Hexanchus griseus</i>
Bigeye sixgill	<i>Hexanchus nakamurai</i>

7.24.2-3 Recreational Landings Requirements – No person fishing recreationally shall possess or land sharks that do not have heads, tails, and fins attached naturally to the carcass. Sharks may be gutted and bled by making an incision at the base of the caudal peduncle provided the tail is not removed. No a person fishing recreationally shall fillet a shark at sea or otherwise cut a shark into pieces at sea.

7.24.2-4 Recreational Minimum Size Limits – No person fishing recreationally shall possess a shark with a fork length less than 54 inches, with the exception of Atlantic sharpnose, blacknose, finetooth, bonnethead, and smooth dogfish, which have no minimum size limit. (See Table 7.4).

Table 7.5 Recreational Minimum Size Limits

No Minimum Size Limit	At Least 54 inches (4.5 Feet) Fork Length	
Smooth Dogfish Atlantic sharpnose Finetooth Blacknose Bonnethead	Tiger Blacktip Spinner Bull Lemon Nurse Great hammerhead	Shortfin mako Porbeagle Common thresher Oceanic whitetip Blue Scalloped hammerhead Smooth hammerhead

7.24.2-5 Authorized Recreational Gear – No person fishing recreationally shall take sharks by any method other than rod and reel or handline. Handlines are defined as a mainline to which no more than two gangions or hooks are attached; retrieved by hand, not by mechanical means; and attached to, or in contact with, a vessel.

7.24.2-6 Recreational Shore-Fishing Possession Limits – No recreational fishermen fishing from shore shall possess, in any one calendar day, more than one shark from the recreationally permitted species list (*Section 7.24.2-1, Table 7.3*), except that each such fishermen may individually possess one additional bonnethead (*Sphyrna tiburo*), and one additional Atlantic sharpnose (*Rhizoprionodon terraenovae*) per calendar day. However, recreational shore-fishermen may harvest an unlimited amount of smooth dogfish.

Sharks that are transported by a vessel are considered ‘boat assisted’ and are regulated under the more restrictive vessel-fishing possession limits in section 7.24.2-7 regardless of how or where they were caught.

7.24.2-7 Recreational Vessel-Fishing Possession Limits - No vessel engaged in recreational fishing vessels shall possess, in any one calendar day, or any one trip, whichever is less, more than one shark from the recreationally permitted species list (*Section 7.24.2-1, Table 7.3*), regardless of the number of people on board the vessel, except that each recreational fisherman fishing from a vessel may individually possess one additional bonnethead (*Sphyrna tiburo*), and one additional Atlantic sharpnose (*Rhizoprionodon terraenovae*), per calendar day, or per trip, whichever is less. However, recreational vessel-fishermen may harvest an unlimited amount of smooth dogfish.

RIMF REGULATIONS [Penalty – Part 3.3 (RIGL 20-1-16)]