



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**



April 9, 2010

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

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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 through 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SUPERSEDED RULES AND REGULATIONS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all previous rules and regulations, and any policies regarding the administration and enforcement of Part XVI shall be superseded.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, 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 80,000 pounds per vessel per calendar day. When the estimated standing stock of menhaden in the management area reaches 3,000,000 pounds, the possession limit shall increase to 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 DLE at (401) 222-3070 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 80,000 pounds per vessel per calendar day, when the estimated weekly standing stock reaches 2,000,000 pounds. If the estimated weekly standing stock reaches a threshold of 3,000,000 pounds, the DFW shall increase the possession limit to 120,000 pounds. If subsequent stock estimates fluctuate above or below 3,000,000 pounds, the DFW shall adjust the possession limits accordingly. 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.

16.2.6 Permanent Closures -- The following areas are permanently closed to purse seining for menhaden:

Providence River

- In the Providence River, all waters north of a line along the hurricane barrier.
- All waters east of the east line of the Providence River navigation channel, south to the northwest corner of the Getty fuel dock on the East Providence shore in the Boyden Heights area.
- On a line from Pomham Rocks to Sabin Pt. and then along a line to BP thence along a line from BP to the tower at Nayatt Point.
- On the west side of Providence River, all of Pawtuxet Cove and all waters inside the dike.
- All waters in the Fields Point area north of a line running from Arnold Ave. on the West Shore to C"39" on the east thence running north to the easternmost extreme tip of Fields Point.

Greenwich Bay

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

West Bay Area:

- All waters of Allen Harbor west of a line running north and south from the easternmost point of land forming Allen Cove.
- All waters west of a line drawn between the towers marking the entrance to Wickford Harbor.

East Bay Area:

- All waters of the Warren River, Barrington River and Palmer River, north of a line running from Rumstick Point through N"2" to the seaward end of Gibson Road at Bristol Highlands.
- All waters of Bristol Harbor north of a line from the end of Johnston Estate Road through R"6" to the Bristol shore on the east at approximately the seaward end of Franklin Street.
- All waters of the Kickemuit River north of a line running from N"6" through N"4" to the shore at the end of Narrows Road in Bristol.
- In the Sakonnet River all waters bounded on the north by the Swing Bridge and on the south by "Stone Bridge" including the waters of Spectacle Cove.

- All the waters of Nannaquaket Pond south of the bridge to Nannaquaket Neck.

Southern Bay Area:

- All waters of Dutch Harbor south and east of a line from the westernmost end of Orchard Road on Conanicut Island to the Quay on the northeastern shore of

Dutch Island. Thence along the eastern shore to Dutch Island Light then easterly to N"2" and then to the most northerly tip of Beaverhead Dock.

- The waters in the area of "Melville" south of a line running from the end of the breakwater to the easternmost point of Dyer Island and thence to Carr Point.

- In Newport Harbor, south and east of a line from the western end of the breakwater in Coasters Harbor south to the southeastern tip of Rose Island thence southerly to C"1" thence east to G"3" to the northern tip of Goat Island, thence south along the east shore of Goat Island to the southern tip of Goat Island and then west to the northernmost tip of Fort Adams.

16.2.7 Seasonal Closures -- The following areas are seasonally closed to purse seining for menhaden:

- **Providence River:** The Providence River, north of a line from Conanicut Point to Nayatt Point, is closed to all harvesting of menhaden with purse seine gear between sunrise August 15 and sunrise January 1 annually.
- **Hope Island Management Area:** The Hope Island Management Area is closed to all harvesting of menhaden with purse seine gear from sunrise January 1 to sunrise August 15 annually. The Hope Island Management Area is encompassed by the following boundary lines: A line from the southern tip of Warwick Point to the northwest point on Patience Island; a line from the eastern point on Patience Island, east to Prudence Island, south along the western shore line of Prudence Island, to the southernmost tip of Prudence Island, then to the northernmost point on Jamestown, northwest from the northern tip of Jamestown to the eastern tip of the carrier pier at Quonset Point and then north along the shoreline from the carrier pier north to southern tip of Warwick Neck.

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 **9th day of April, 2010** 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.

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

Notice Given: **01/22/2010**
Public Hearing: **02/23/2010**

Filing date: **04/09/2010**
Effective date: **04/29/2010**