STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

BUREAU OF NATURAL RESOURCES
FISH AND WILDLIFE
&
LAW ENFORCEMENT

RHODE ISLAND MARINE FISHERIES REGULATIONS

Part III
Marine Fisheries Council

October 15, 2014

AUTHORITY: Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

TABLE OF CONTENTS

PURPOSE 3

AUTHORITY 3

APPLICATION 3

SEVERABILITY 3

SUPERSEDED RULES AND REGULATIONS 3

REGULATIONS ..... 4 - 7

EFFECTIVE DATE PAGE 7

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, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), 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SUPERSEDED RULES AND REGULATIONS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all previous rules and regulations, and any policies regarding the administration and enforcement of Part III shall be superseded.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 Regulations
PART III - MARINE FISHERIES COUNCIL

3.1 Allocations, seasons and possession limits: For species managed under quota, possession limit, and/or by seasons, compliance with a federal or regional fisheries management plan (FMP), the Division of Fish and Wildlife (DFW), unless specifically prohibited by the Secretary of Commerce or the Atlantic States Marine Fisheries Commission, will have the authority to distribute the allocations including the distribution of allocations among the various gear types, modify possession limits, and change seasons in the following manner:

3.1.1 Allocation Changes: DFW may project when the allocation for a species will be exhausted. This determination will be based on the period of time remaining in the allocation period, historical catch rates, and the current catch rate. If DFW determines that an allocation assigned for a sub-period or assigned to be available for taking by a particular gear type during that sub-period will be exhausted prior to the end of the sub-period or will not be met for a sub-period, it may change or redistribute the allocation assigned to be available for taking by a particular gear type during that sub-period. DFW will file a notice with the Secretary of State and submit a listserve notice announcing the change. All variances will be effective upon filing with the Secretary of State.

3.1.2 Possession limit Changes: If DFW determines that the allocation for a given species will be exhausted prior to the end of a sub-period or will not be met for a sub-period, DFW may change the possession limit; such modifications may include the increase or the decrease in the possession limit at which a sub-period commences. DFW will file a notice with the Secretary of State and submit a listserve notice announcing the change. All variances of possession limits will be effective upon filing with the Secretary of State.

3.1.3 Season Changes: Upon notification from federal authorities to alter a season for a particular species in compliance with a federal or regional FMP, DFW will file a notice with the Secretary of State and submit a listserve notice announcing the change. All changes in seasons accomplished will be effective upon filing with the Secretary of State.

3.1.4 Current Possession limit: If no current possession limit is noted in the table below, refer to RI Marine Fisheries Regulations (RIMFR) Part 7 for the sub-period starting possession limit for all species other than Striped bass, Menhaden, and Horseshoe crabs. For Striped bass, refer to RIMFR Part 12; for Horseshoe crabs, refer to RIMFR Part 15; for Menhaden, refer to RIMFR Part 16.

Species	Current possession limit	Effective dates
Atlantic Herring – Area 1A		
Atlantic Herring – Area 1B	Directed Fishery is CLOSED; 2,000 lbs/vessel/calendar day bycatch allowance.	Effective 12:01AM on May 28, 2014, until the next fishing season begins on May 1, 2015.

Atlantic Herring – Area 2	OPEN UNLIMITED	Effective 12:01AM on October 29, 2013.
Atlantic Herring – Area 3	Directed Fishery is CLOSED; 2,000 lbs/vessel/calendar day bycatch allowance.	Effective 12:01AM September 26, 2014.
Black Sea Bass	CLOSED	Effective 12:01AM on September 11, 2014, until the next sub-period begins on November 1, 2014.
Coastal Sharks – Smoothhound Sharks Species Group	OPEN UNLIMITED	Effective 12:01AM on January 1, 2014, until the fishing season ends on December 31, 2014, or until further notice.
Coastal Sharks - Non-Blacknose Small Coastal Shark Species Group	CLOSED	Effective 12:01AM on July 29, 2014 until further notice.
Coastal Sharks - Blacknose Coastal Shark Species Group	CLOSED	Effective 12:01AM on July 29, 2014, until further notice.
Coastal Sharks - Aggregated Large Coastal Sharks Species Group	Open at 36 fish/vessel/calendar day	Effective 12:01AM on June 1, 2014 until the fishing season ends on December 31, 2014, or until further notice.
Coastal Sharks - Hammerhead Sharks Species Group	Open at 36 fish/vessel/calendar day	Effective 12:01AM on June 1, 2014 until the fishing season ends on December 31, 2014, or until further notice.
Coastal Sharks - Pelagic Sharks Species Group	OPEN UNLIMITED	Effective 12:01AM on January 1, 2014 until the fishing season ends on December 31, 2014, or until further notice.
Coastal Sharks - Porbeagle Sharks of the Pelagic Shark Species Group	OPEN UNLIMITED	Effective 12:01 AM on January 1, 2014, until the fishing season ends on December 31, 2014, or until further notice.
Horseshoe Crab – commercial bait fishery	CLOSED	Effective 12:01AM on May 17, 2014.
Menhaden – in the Menhaden Mgmt. Area	CLOSED	Effective 12:01AM on July 14, 2014.
Menhaden – In State Waters outside the Menhaden Mgmt. Area	OPEN at 120,000 lbs/vessel/calendar day.	Effective 12:01AM on May 30, 2014.
Monkfish		
Scup – General Category	OPEN at 10,000 lbs/vessel/week.	Effective 12:01AM on May 1, 2014.
Scup – Floating Fish Traps	OPEN UNLIMITED	Effective 12:01AM on January 1,

		2014.
Striped Bass – General Category	OPEN at 5 fish per vessel per day	Effective 12:01AM on October 19, 2014.
Striped Bass – Floating Fish Traps	OPEN UNLIMITED	Effective 12:01AM on January 1, 2014.
Summer Flounder	OPEN at 100 lbs/vessel/ calendar day; the Aggregate Landing Program is CLOSED	Effective 12:01AM on October 6, 2014.
Tautog	OPEN at 10 fish/vessel/calendar day.	Effective 12:01AM on October 15, 2014.
Spiny Dogfish	OPEN at 5,000 lbs/vessel/ calendar day.	Effective at 12:01AM on September 8, 2014.
Weakfish	OPEN at 100 lbs/vessel/day.	Effective 12:01AM on June 1, 2014.

3.2 Penalties: Unless another penalty is specified in this Title, any person who violates a rule or regulation of the Department shall, upon conviction, be punished by a fine of not more than five hundred dollars ($500) or imprisonment for not more than ninety (90) days, or both. (RIGL 20-1-16)

3.3 Shellfish and Marine Life Management Areas: The Council may, recommend to the Director, to designate certain portions of the shores of the public waters of the State, or land within the State covered by tidewater at either high or low tide, or portions of the free and common fisheries of the State as Shellfish or Marine Life Project Management Areas pursuant to RIGL Section 20-3-4.

3.3.1 Any designations under these regulations shall include an explicit description of the area to be designated and may include restrictions on the quantities, types, or sizes of shellfish or finfish which may be taken in such area, the times during which shellfish or finfish may be taken, the manner or manners in which shellfish or finfish may be taken, or may close such area to the taking of shellfish or finfish altogether.

3.3.2 A designation under these regulations may be made for a period not to exceed five (5) years. A designation may be renewed at the end of its initial term.

3.3.3 Designations under these regulations may be made pursuant to the Administrative Procedures Act, Chapter 42-35 of the General Laws of Rhode Island as amended. Such designations shall contain a brief description of the purposes for which they are being made.

3.3.4 Shellfishing and finfishing activity in a Management Area may be regulated by the Director by filing such regulation with the office of the Secretary of State. Such regulation shall take effect twenty (20) days following its filing. In case of emergency or imminent hazard found to require immediate action, the Director may issue regulations governing the taking of shellfish or finfish in a Management Area to become effective without delay. Any regulation issued under this Section shall

contain an explicit description of the nature of the emergency or imminent hazard giving rise to the regulation.

3.3.5 Until and unless modified pursuant to these regulations, all Management Areas previously established by the Department shall remain in effect.

3.3.6 The Director may, where he or she reasonably believes that a delay would adversely affect the public purposes sought to be served by Title 20 of the General Laws of Rhode Island and/or would pose a danger to the public health, act to open or close any area (whether or not previously designated as a Marine Life Management Area) within the coastal waters of the State of Rhode Island to the taking of any and all types of fish, lobsters, and shellfish. In determining whether to open or close an area pursuant to this regulation, the Director shall consider what effect, if any, would be occasioned by deferring the decision to open or close such area until the next meeting of the Council. If the Director opens or closes an area without awaiting the next meeting of the Council, he or she shall:

(A) Immediately give notice, in writing, to the Council members of his/her action, and the basis thereof;

(B) Immediately give notice of his/her action, in a newspaper of general circulation in the area to be affected thereby; and

(C) Place his/her decision to open or close an area on the agenda at the next scheduled meeting of the Council, for its consideration.

EFFECTIVE DATE

The foregoing rules and regulations "Rhode Island Marine Regulations, Part III - Marine Fisheries Council", after due notice, are hereby adopted and filed with the Secretary of State this 15th day of October, 2014 to become effective 20 days from filing, unless otherwise indicated below, in accordance with the provisions of Title 20, Chapters 42.17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

_____

Mark Gibson, Deputy Chief of Marine Fisheries
Division of Fish and Wildlife
Department of Environmental Management

Notice Given: N/A
Public Hearing: N/A

Filing date: 10/15/2014
Effective date: 10/15/2014

ERLID# 7924