



Rhode Island Marine Fisheries Council

3 Fort Wetherill Road Jamestown, Rhode Island 02835
(401) 423-1920 Fax: (401) 423-1925

RIMFC: Molly Ogren, *Chair*; Travis Barao; Andy Dangelo; Katie Eagan; Jason Jarvis; David Monti, *Vice Chair*; Michael Rice, Ph.D.; Mike Roderick

MEETING NOTICE RI MARINE FISHERIES COUNCIL

Monday, April 3, 2023 – 6:00 PM

In person:

URI Bay Campus, Corless Auditorium
215 South Ferry Road
Narragansett, RI

Zoom webinar:

<https://us02web.zoom.us/j/83805326029?pwd=eFFTem12NUVveVBDDdGhiTys3cUFRUT09>

Meeting ID: 838 0532 6029

Passcode: 282613

Dial in: 1-929-205-6099

AGENDA

Agenda item	Recommended action(s)	ePacket Attachment(s)
1. Tonight's agenda	Approval of agenda	Tonight's meeting agenda
2. Meeting minutes - November 28, 2022	Approval of meeting minutes	Draft meeting minutes
3. Public comment on any matters not on the agenda	Discussion and/or recommendations for future action.	N/A
4. <u>Shellfish Advisory Panel (SAP) meeting minutes (March 8 and 22, 2023): K. Eagan</u>	Approval of minutes	<ul style="list-style-type: none">• SAP presentation 3/8• Draft meeting minutes 3/8• SAP presentation 3/22• Draft meeting minutes 3/22
5. <u>2023 Harvest Schedule Providence River Shellfish Management Area: K. Eagan, E. Schneider</u>	Provide recommendations to the Director for regulatory changes	<ul style="list-style-type: none">• SAP presentations• SAP recommendation (draft meeting minutes 3/22)

<p>6. <u>Proposed regulations publicly noticed:</u> <i>C. McManus</i></p> <ul style="list-style-type: none"> a. 2023 rec. black sea bass mgmt. b. 2023 rec. scup mgmt. c. Dealers – Striped Bass Reporting d. 2023 comm. general category striped bass mgmt. e. Comm. menhaden mgmt. f. Other non-substantive proposed amendments to Part 3 “Finfish” g. Aggregate Program for Summer Flounder and Black Sea Bass h. Summer Flounder Exemption Certificate Program possession limit i. Addition, revision and/or deletion of terms/species 	<p>Provide recommendations to the Director regarding proposed regulations</p>	<ul style="list-style-type: none"> • Part 3 – Finfish: <ul style="list-style-type: none"> ○ Rule summary ○ Workshop 1/31/2023) powerpoint presentation ○ Proposed (noticed) rules <ul style="list-style-type: none"> • 2023 rec. black sea bass <ul style="list-style-type: none"> ○ ASMFC updates concerning Black Sea Bass since noticing of proposed rules • 2023 rec. scup • 2023 comm. general category striped bass • Comm. menhaden mgmt. • Other non-substantive proposed amendments to Part 3 “Finfish” • Aggregate Program for Summer Flounder and Black Sea Bass: <ul style="list-style-type: none"> ○ Rule summary ○ Workshop 9/26/2023) powerpoint presentation ○ Proposed rules: <ul style="list-style-type: none"> • Part 23 - Aggregate Program for Summer Flounder and Black Sea Bass • Part 12 - Research Pilot Aggregate Program • Report - Assessment of the Rhode Island Summer Flounder and Black Sea Bass Pilot Aggregate Management Programs • Report - Summer Flounder/Black Sea Bass Pilot Aggregate Program Summary 2019-2022 • Part 14 – Summer Flounder Exemption Certificate Program (proposed rule) • Part 7 - Dealers – Striped Bass Reporting (proposed rule) • Part 1 – Definitions and General Provisions • Summary of Comments (all proposed rules) • Written comments received (all proposed rules)
<p>7. <u>Legislative update:</u> <i>M. Ogren</i></p>	<p>FYI</p>	<ul style="list-style-type: none"> • House bill H5863
<p>8. <u>Member terms – renewals and vacancies:</u> <i>M. Ogren</i></p>	<p>FYI or recommendations for future action.</p>	<ul style="list-style-type: none"> • Solicitation listserve
<p>9. Any other matters?</p>	<p>FYI or recommendations for future action.</p>	
<p>10. Adjourn</p>		

All RIMFC Meetings are open to the public

Posted to Sec. of State Open Meetings pursuant to R.I. Gen. Laws § 42-46-6



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RIMFC: Robert Ballou, *Chairman*; Travis Barao; Andy Dangelo; Katie Eagan; Jason Jarvis; David Monti, *Vice Chair*; Christopher Rein; Michael Rice, Ph.D.; Mike Roderick

MEETING SUMMARY

November 28, 2022

Chairperson: Bob Ballou, Office of the Director

RIMFC members in attendance: T. Barao, D. Monti, Dr. M. Rice, A. Dangelo (M. Roderick, J. Jarvis, K. Eagan absent)

Division of Marine Fisheries: C. McManus, S. Olszewski, C. Truesdale, J. Lake, N. Costa, N. Ares, C. Parkins, P. Duhamel

Office of the Director: Jason McNamee, Deputy Director for Natural Resources

Office of Legal Services: Joe LoBianco, Senior Legal Counsel

Licensing Office: Margaret McGrath

Division of Law Enforcement: Sgt. Jeff Mercer

Public: Two persons in attendance

1. Approval of the agenda: The Chair inquired to any objections to approving the agenda or if there were any requests for modifications; hearing no objections or requests for modifications, the agenda was approved by consent.
2. Approval of minutes from meeting on October 11, 2022: The Chair inquired to any objections to approving the minutes or if there were any requests for modifications as presented. He offered a correction needed regarding the motion for item 5 “2023 Sector Management Plan” in that the motion made was not specified. Hearing no objections or other requests for modifications, the minutes were approved as modified by consent.
3. Public comments regarding any other matters not on agenda: No comments were made.
4. Recommendations on regulation amendments publicly noticed:
 - a. 2023 commercial black sea bass management: Motion made by Mr. Dangelo to recommend to the Director adoption of the industry proposal for commercial black sea bass to modify the starting possession limits as proposed; 2nd by Mr. Monti. The motion passed 4-0.
 - b. 2023 commercial scup management: Motion made by Mr. Barao to recommend to the Director adoption of the industry proposal for commercial scup to modify the general category summer possession limit to unlimited, with the modification to maintain the default floating fish trap non-compliance with reporting

requirements possession limit of 25,000 pounds/licensee/day that was inadvertently added to the proposed rule; 2nd by Dr. Rice. The motion passed 4-0.

- c. 2023 commercial summer flounder management: Motion made by Mr. Monti to recommend adoption of proposal # 2 as noticed, with modification of the Winter I starting aggregate possession limit from 6,000 to 4,000 lbs/vessel/bi-week; 2nd by Dr. Rice. The motion passed 4-0.
 - d. Recreational striped bass gear restrictions: Motion made by Mr. Monti to recommend to the Director adoption of the recreational striped bass gaff prohibition as proposed; 2nd by Mr. Dangelo. The motion passed 4-0.
 - e. Spanish mackerel: Motion made by Mr. Monti to recommend adoption of the recreational and commercial regulations for Spanish mackerel as proposed; 2nd by Mr. Dangelo. The motion passed 4-0.
 - f. Valid date of lobster trap tags: Motion made by Dr. Rice to recommend to the Director to maintain status quo for lobster trap tag dates; 2nd by Mr. Dangelo. The motion passed 4-0.
 - g. Summer flounder Exemption Certificate Program: Motion made by Mr. Monti to recommend to the Director adoption of the summer flounder exemption certificate language as proposed; 2nd by Mr. Barao. The motion passed 4-0.
5. Updating and streamlining statutes pertaining to RIMFC: B. Ballou offered an overview of the possible legislation being considered by the Department and the legislative process. He offered that the Council review at this time serves as a prelude to the legislative process to inform and seek guidance and support from the Council. He offered that the legislative process would afford ample opportunity for public comment and that the Council would be informed of developments as the process proceeds. He proceeded to review each of the matters broken into substantive and non-substantive (i.e., housekeeping and cleanup) categories. Concern was expressed by Mr. Monti concerning removal of the requirement that the Division develop and update conservation and management plans. C. McManus offered that much of the content of the plan is included in the Division's annual report. Upon conclusion of the discussion, motion made by Dr. Rice to recommend to the Director that the Department move forward with updating RI statutes pertaining to the RIMFC as discussed today, including the recommendation to revisit the proposal pertaining to conservation and management plans; 2nd by Mr. Monti. The motion passed 4-0.
6. Any other matters: N. Costa provided an fyi item regarding a survey that will be circulated on the Division's listserve for the Port of Galilee Resilient and Sustainable Waterfront Development, and requested that all interested should complete the survey.
7. RIMFC Chairmanship: B. Ballou offered that he would be retiring from state service in early 2023 and that tonight's meeting was his final meeting as chair. He introduced Molly Ogren as his replacement to take over at the next meeting planned in March.

Motion made by D. Monti to offered thanks to Mr. Ballou for his years of service and outstanding leadership as Council chair; 2nd by

8. Adjournment: The meeting was adjourned at @ 7:40pm.

Note: This document represents a meeting summary. The full video recording of the meeting is available at the Division of Marine Fisheries YouTube channel [here](#). Individual agenda items and discussion times can be viewed by expanding the “SHOW MORE” tab.

SHELLFISH ADVISORY PANEL

**URI Bay Campus/GSO
Hazard Room (Coastal Inst. Building)**

**public meeting
& Zoom webinar**

March 8, 2023 (4:30pm)



AGENDA



1. Aquaculture Application
2. Greenwich Bay Transplant
3. SREP Update
4. DEM DMF Quahog Dredge Survey Results for 2022
5. Providence River 2022 Harvest Summary
6. Rainfall and Water Quality Closure Summary 2022
7. Providence River 2023 Harvest Schedule Discussion
8. Any Other Matters
9. Adjourn

1. Aquaculture Application

Roger Williams Univ. (RWU)

File NO. 2022-04-046

- Mount Hope Bay
- Adjacent to RWU learning platform
- 2 acre Education/Research
- Has been a research site since 2006
 - No shellfish survey
- Feedback from PD and other meetings incorporated



1. Aquaculture Application

Roger Williams Univ. (RWU)

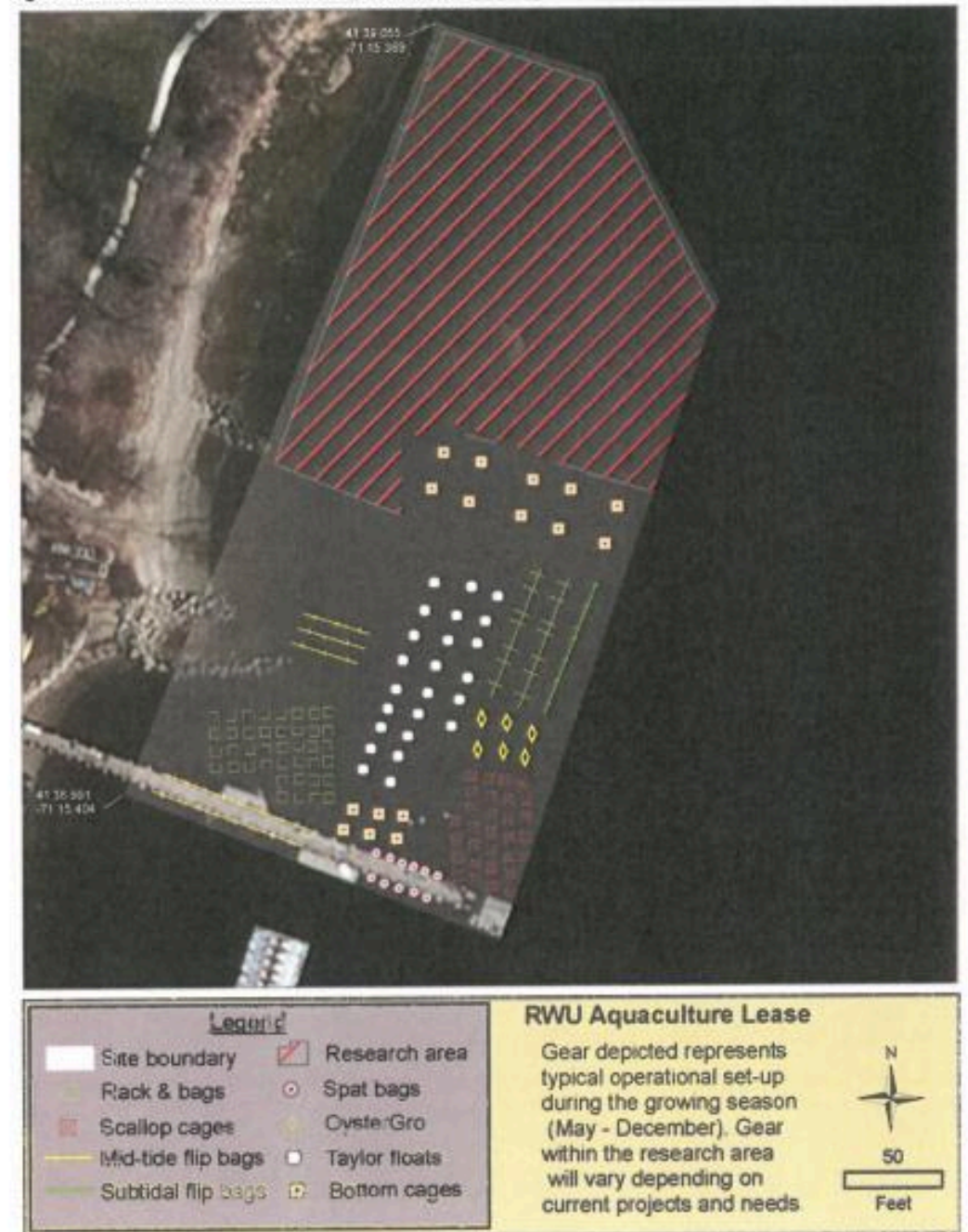
File NO. 2022-04-046

- Multi-species

<i>Crassostrea virginica</i>	Eastern oyster
<i>Mercenaria mercenaria</i>	Hard clam
<i>Argopecten irradians</i>	Bay scallop
<i>Spisula solidissima</i>	Atlantic surf clam
<i>Ensis directus</i>	Atlantic razor clam
<i>Tagelus plebeius</i>	Stout razor clam
<i>Mya arenaria</i>	Soft shell clam
<i>Mytilus edulis</i>	Blue Mussel
<i>Anadara granosa</i>	Blood Ark
<i>Solemya velum</i>	Atlantic awning clam
<i>Saccharina latissimi</i>	Sugar kelp
<i>Gracilaria tikvahiae</i>	Graceful redweed
<i>Palmaria palmate</i>	Dulse

- Multi-gear

Figure 15. Plan view of the proposed aquaculture lease.



3. Greenwich Bay Transplant



Update on Transplant Planning

4. SREP Update



Rhode Island Shellfish Restoration and Enhancement Plan (SREP)

- Considers needs of stakeholders and managers
- Address the ecological and social complexities of shellfish restoration
- Improves outreach and engagement
- Visit: risrep.org





4. SREP Update

Planning Process

Participatory planning process, where stakeholders:

- Co-develop priorities and goals
- Provide local knowledge and insight on resource, uses, challenges

The process must:

- Provide meaningful opportunities for stakeholder contributions
- Leverage partnerships, and local knowledge and expertise
- Build trust, social capital, and motivation



4. SREP Update

In-person Stakeholder Workshops

- Facilitated small-group meetings
- Stakeholders share knowledge and perspectives to develop draft restoration priorities and goals based on ecosystem services

Objectives:

1. Define and rank the R&E priorities and goals for the workshop's region
2. Describe any knowledge or information that can help address each goal
3. Provide feedback on the planning process



4. SREP Update



In-person Stakeholder Workshops



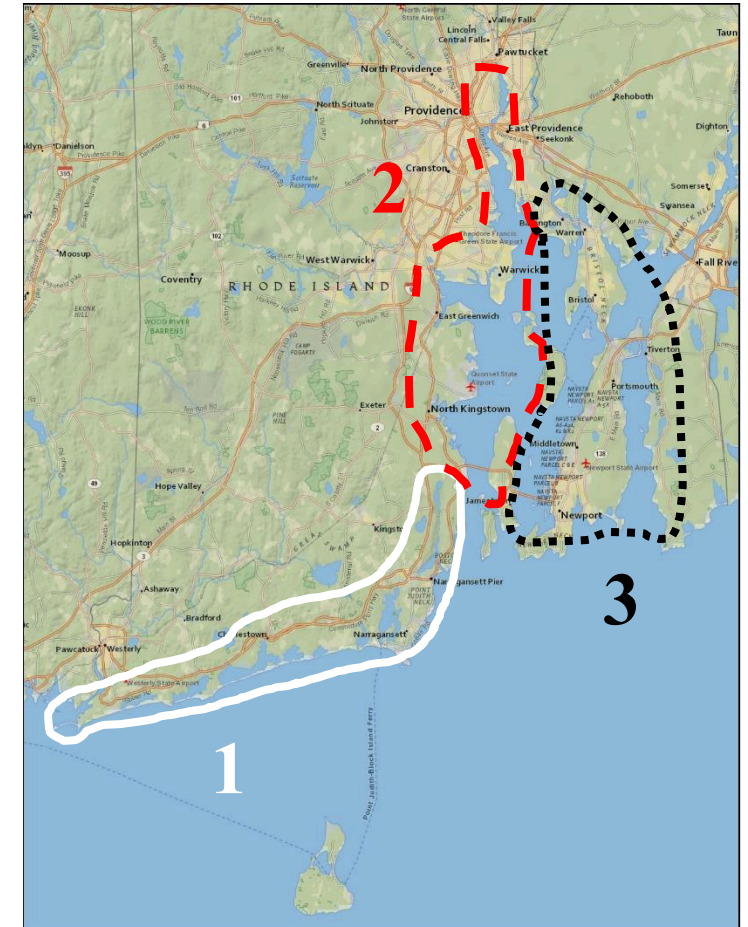
Coastal Institute, URI GSO, in Narragansett

- **Workshop No. 1:** March 13, 2023 from 5:30 – 8:00 PM
 - Little Narragansett Bay, the coastal ponds, and the Narrow River.
- **Workshop No. 2:** March 14, 2023 from 5:30 – 8:00 PM
 - West Passage of Narragansett Bay and the Providence River

Common Fence Point Arts, Wellness, and Community Center, in Portsmouth

- **Workshop No. 3:** March 15, 2023 from 6:00 – 8:30 PM
 - East Passage of Narragansett Bay and the Sakonnet River

Workshop Focal Areas





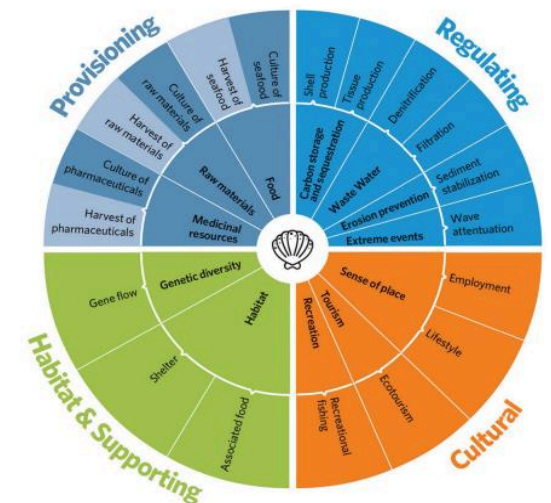
4. SREP Update

Next Steps - Stakeholders

- Prepare for in-person workshops - What is your vision?
 - What ecosystem services do you value?
 - What areas are most important to you?
 - **Tell us what you want; not what you expect to get!**
 - Open, inclusive, and respectful of all values and suggestions

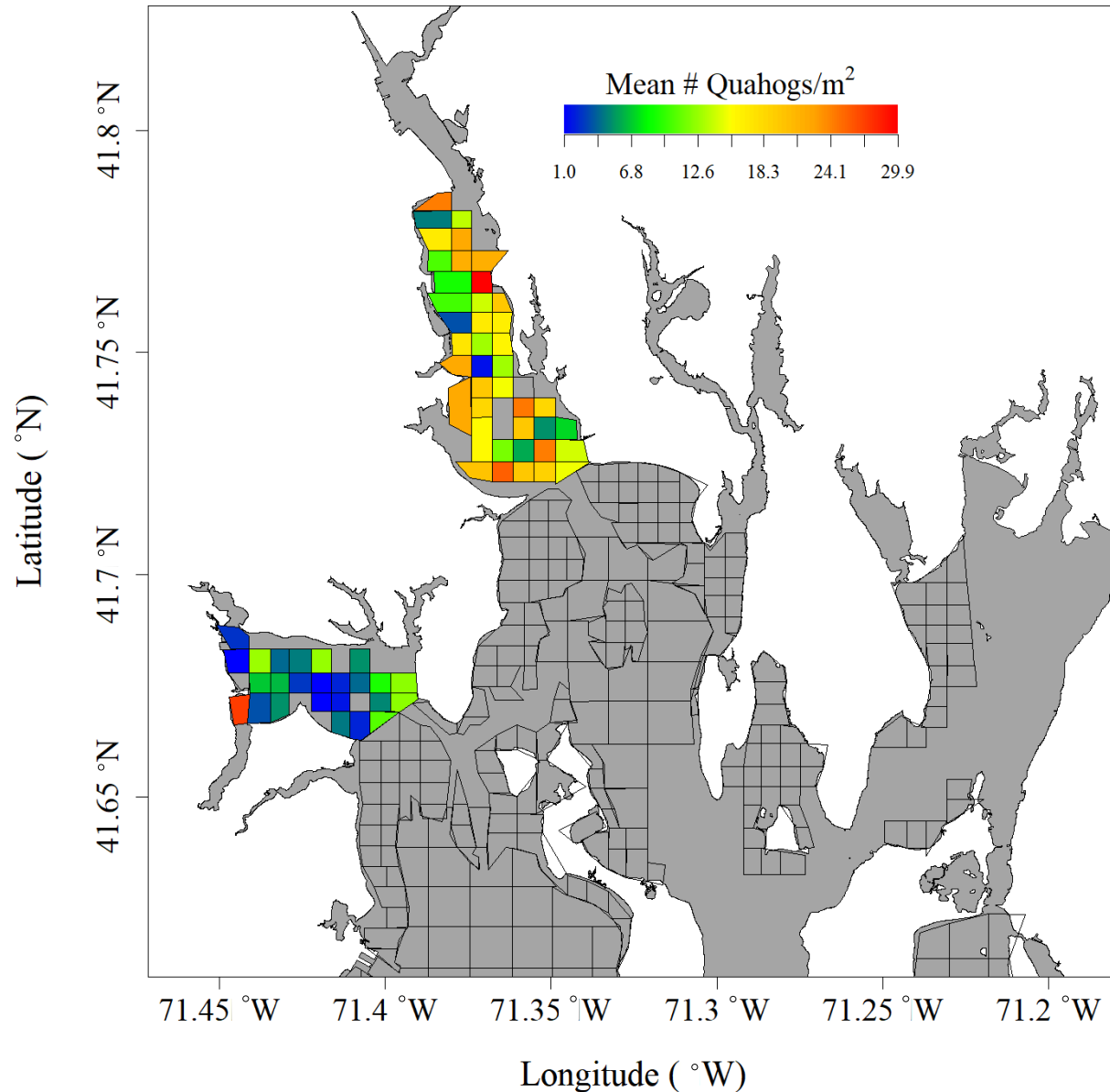
Visit risrep.org

- Sign up listserv
- Register for and attend in-person workshops
- Stay tuned for an online survey (coming in April/May)

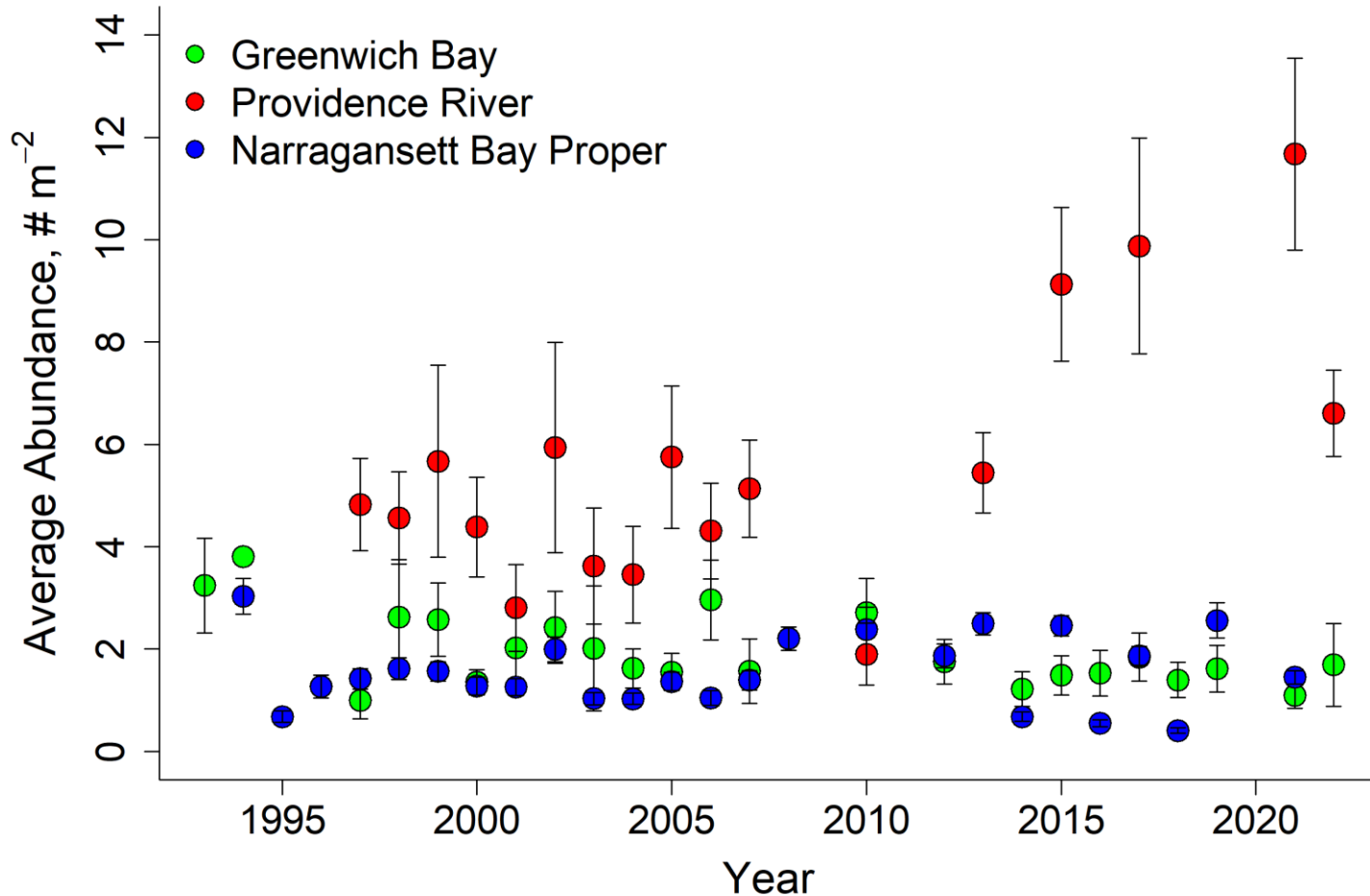


4. Dredge Survey

- 2022 Dredge Survey
 - Sampled 67
 - Post Summer/Pre Winter Harvest
- Second year with the new Research Vessel
 - Same Dredge and Methodology



4. Dredge Survey



Mean Abundance Indices (\pm SE) through 2022 season

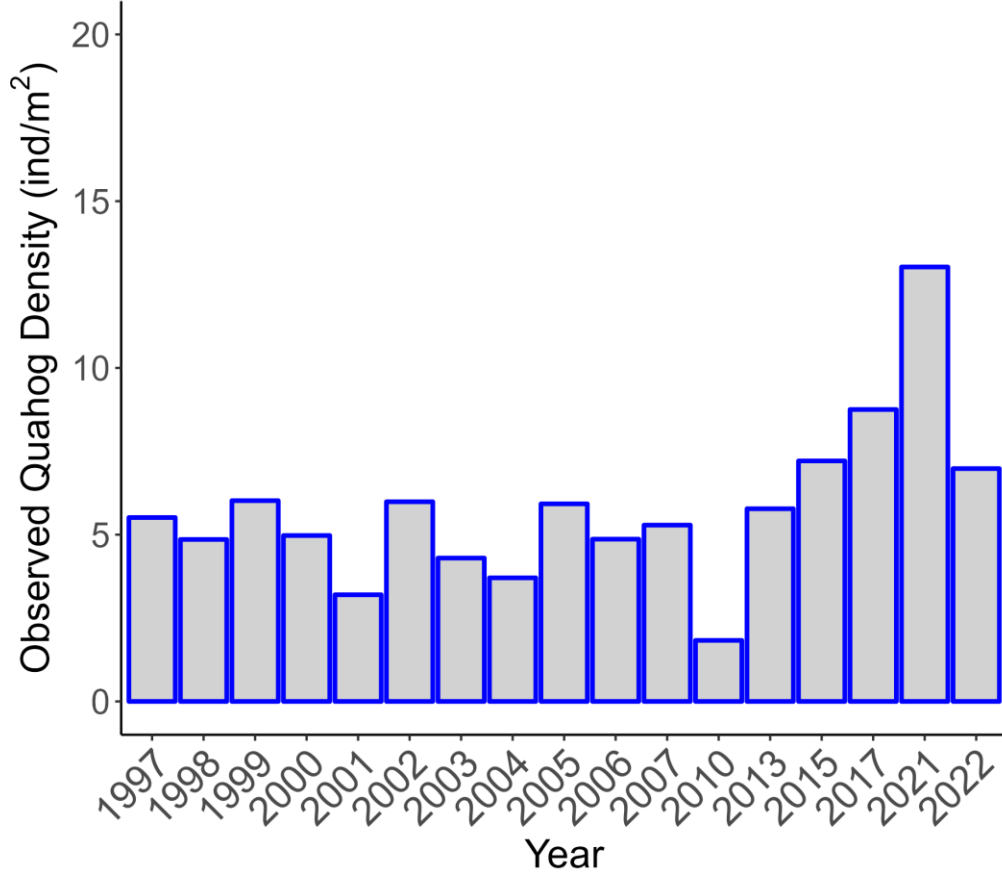
Providence River Index declined

Greenwich Bay and NBP are relatively consistent with past years

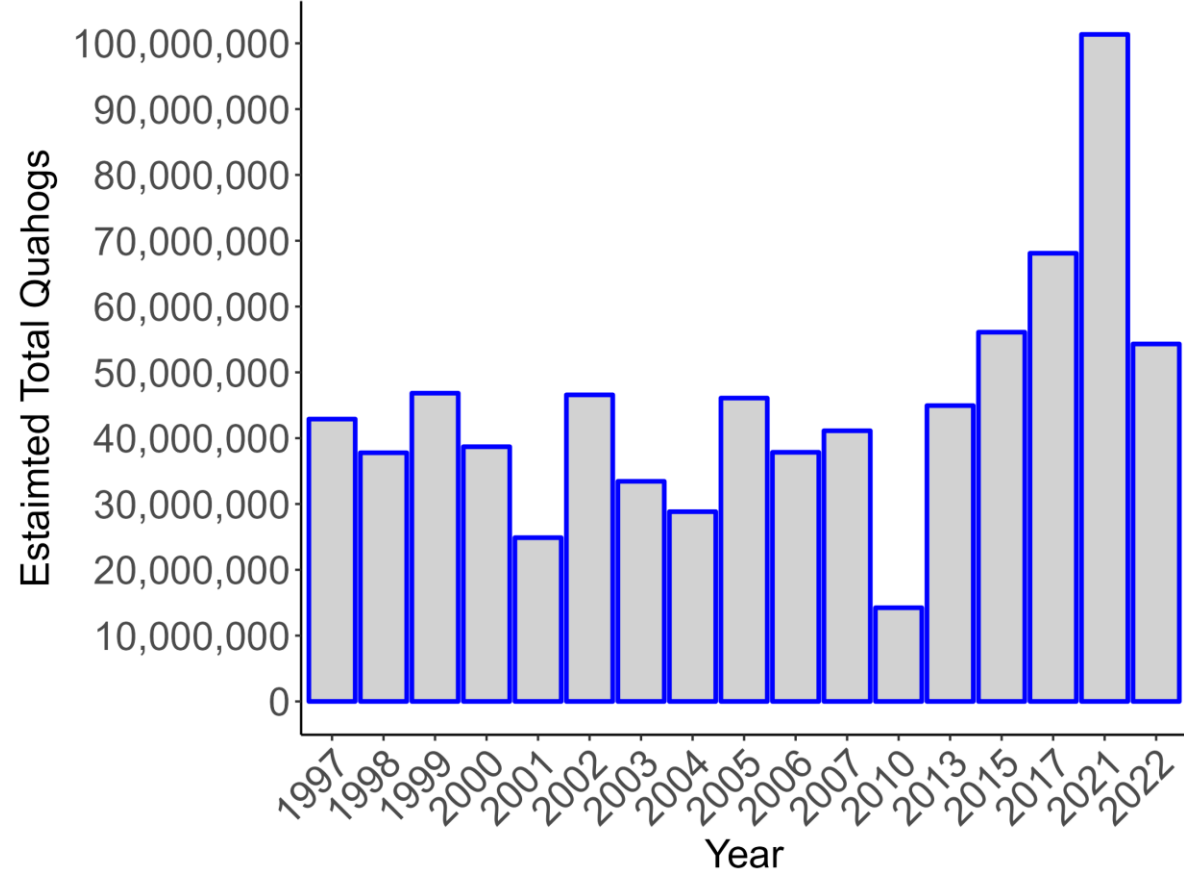
4. Dredge Survey – Providence River Conditional Area E



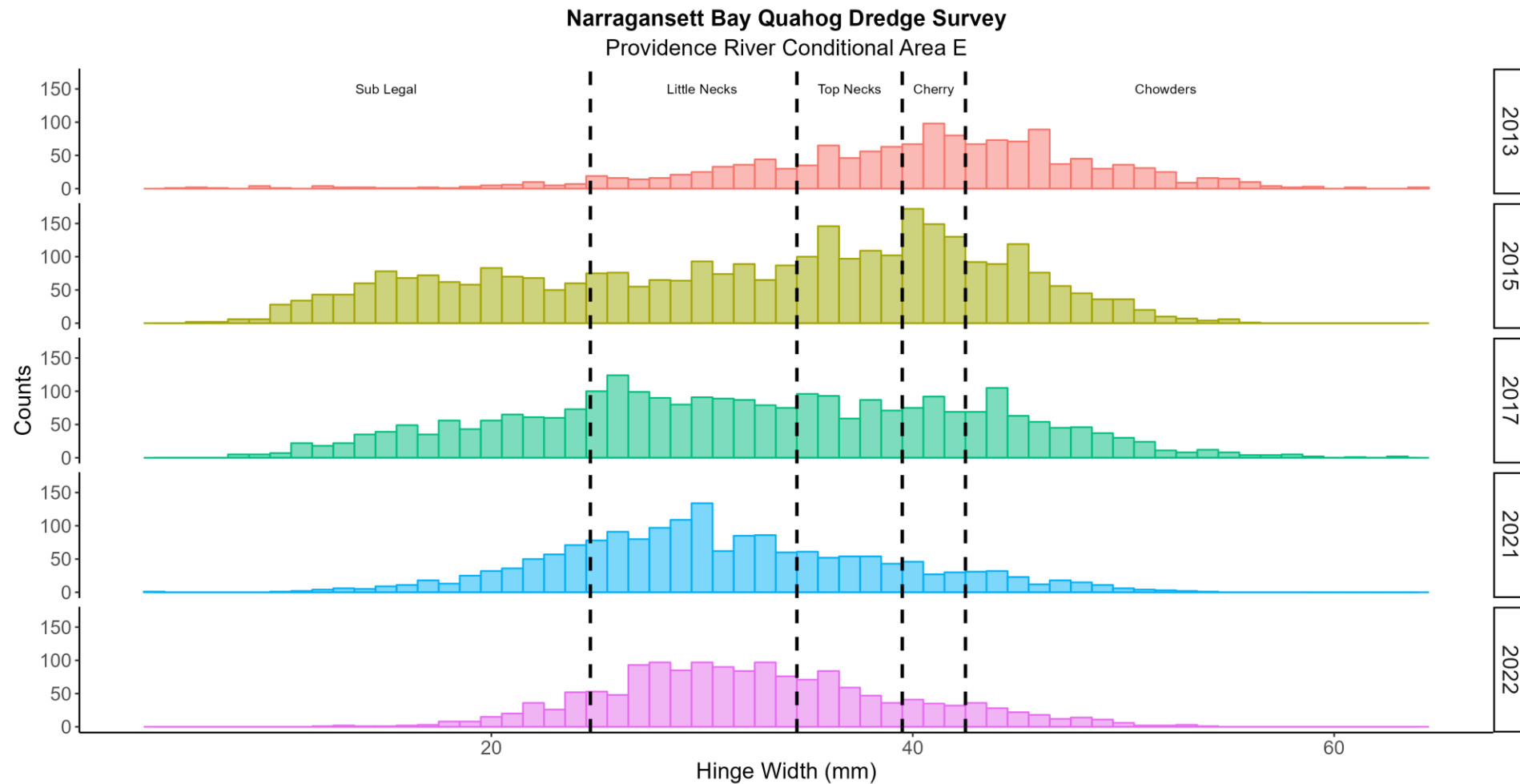
**RIDEM - Quahog Dredge Survey
Conditional Area E**



**RIDEM - Quahog Dredge Survey
Conditional Area E**



4. Dredge Survey – Providence River Conditional Area E

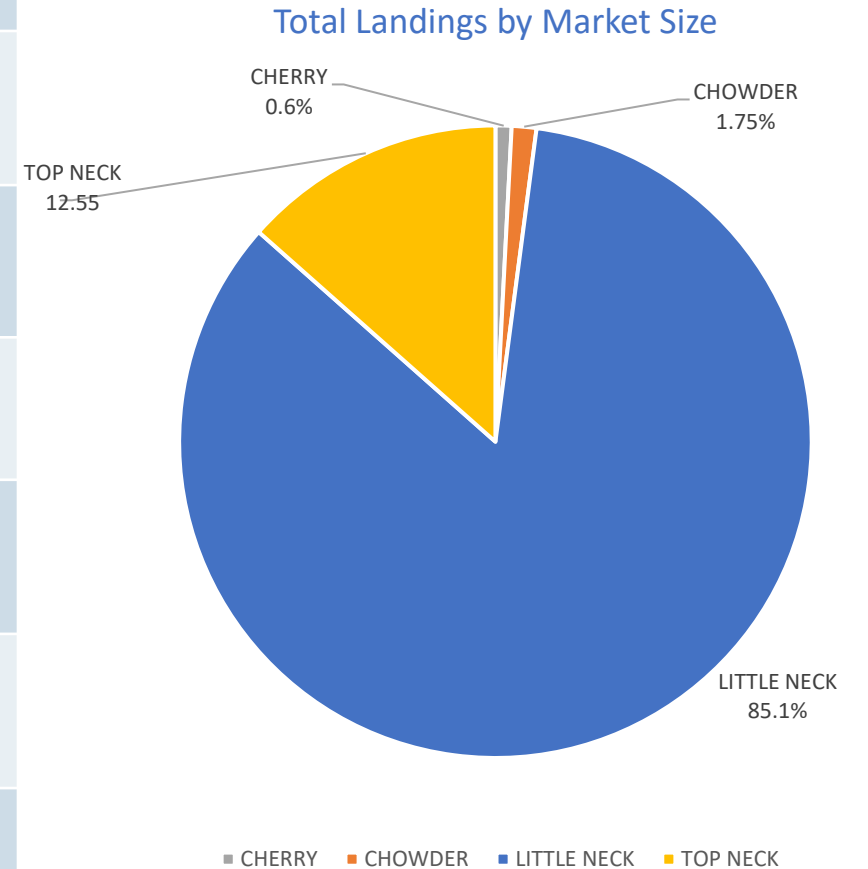


- The 2022 Providence River survey was conducted between the summer and winter harvest schedules

5. Providence River 2022 Harvest Summary

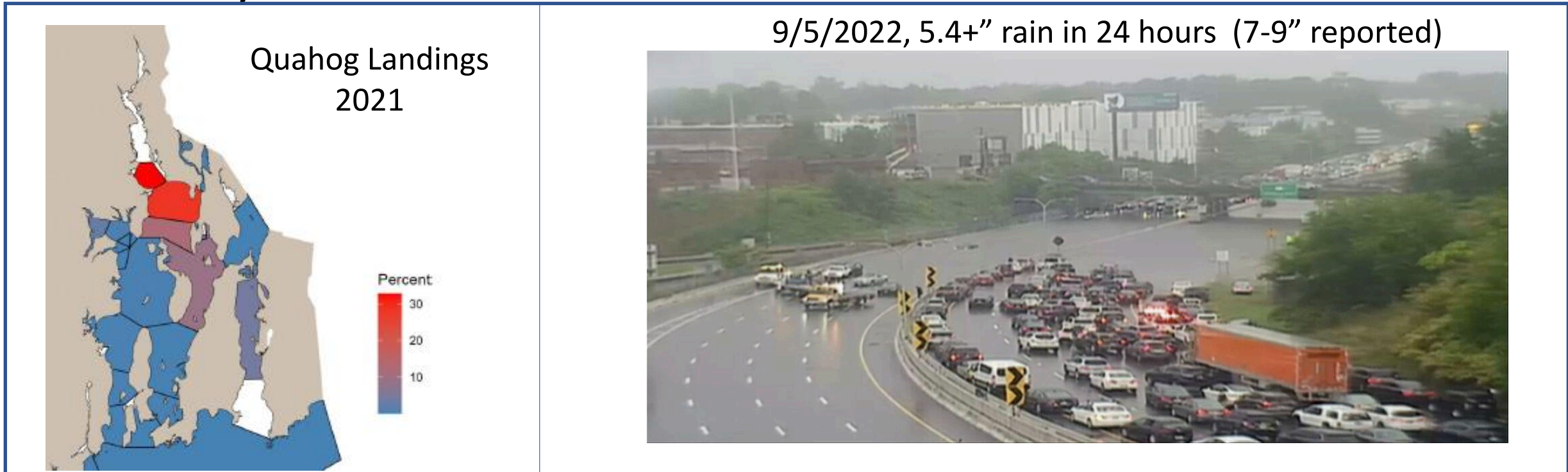


YEAR	2021	2022
Days Open	15 out of 30	28 out of 40
Clams Harvested	4,727,196	10,553,571 (60% of all RI harvest)
Average landings per Day	312,530	373,731
Range of Total Landings per day	200,827 - 434,001	121,481 – 473,091
Average Number of Harvesters per Day	151	174
Range of Number of Harvesters per day	111 – 193	70-221
Average number of Clams per license in a given day	2,057	2,147



Providence River Conditional Area: Days Open Analysis 2011-2022

- Conditionally Approved Shellfish Areas
- 2022 Rain Closures
- Analysis of Rain Closure Days & Harvest Schedules 2011–2022.
- Summary



Fecal coliform bacteria as indicator.....

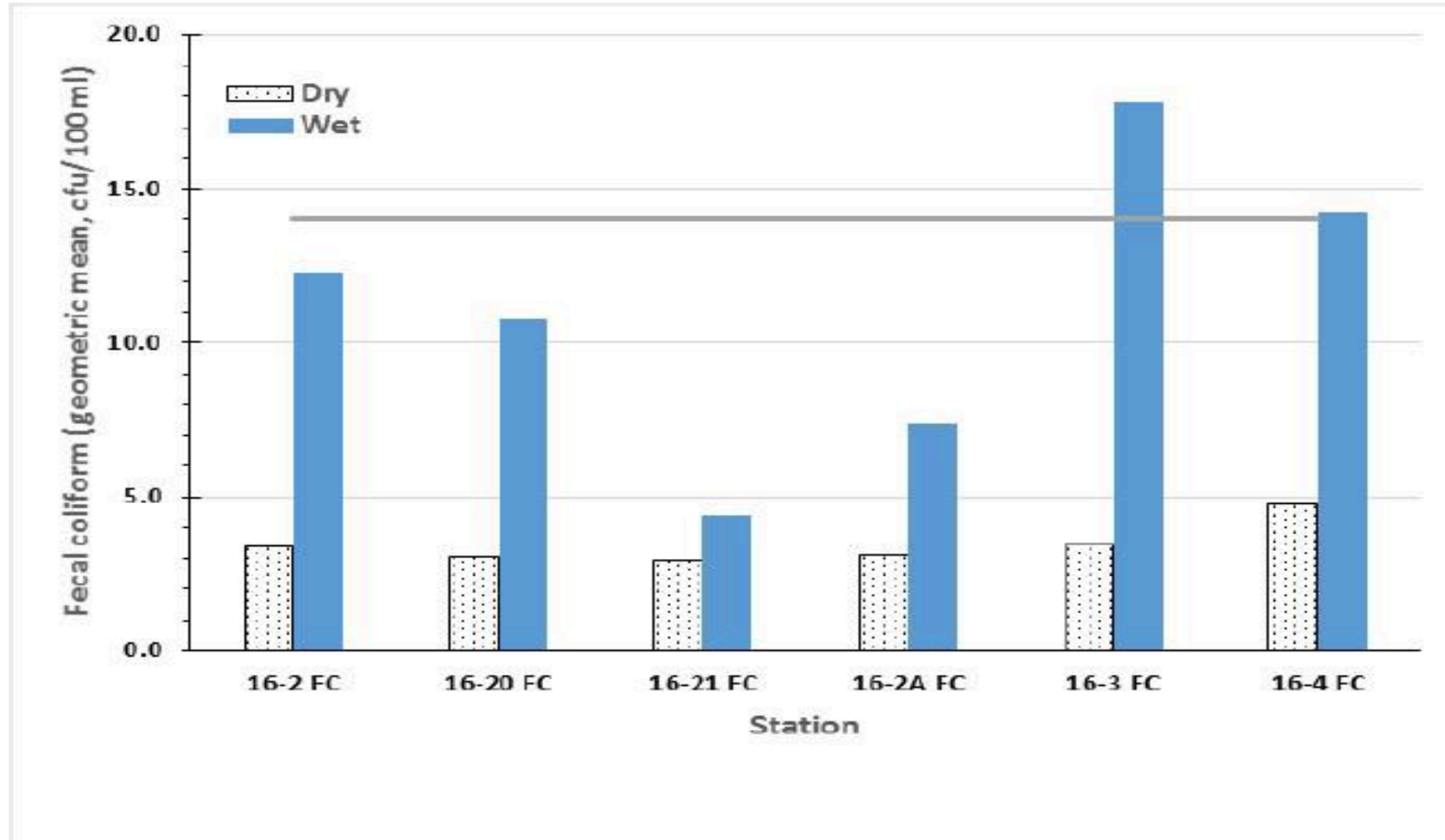


Figure 6: Geometric mean fecal coliform concentrations at stations in GA16 during dry (<0.5" rain in prior 7 days) and wet (> 0.5" rain in prior 7 days) weather. NSSP geometric mean standard of 14 cfu / 100 mL shown for reference (horizontal line). See Figure 7 for station locations.

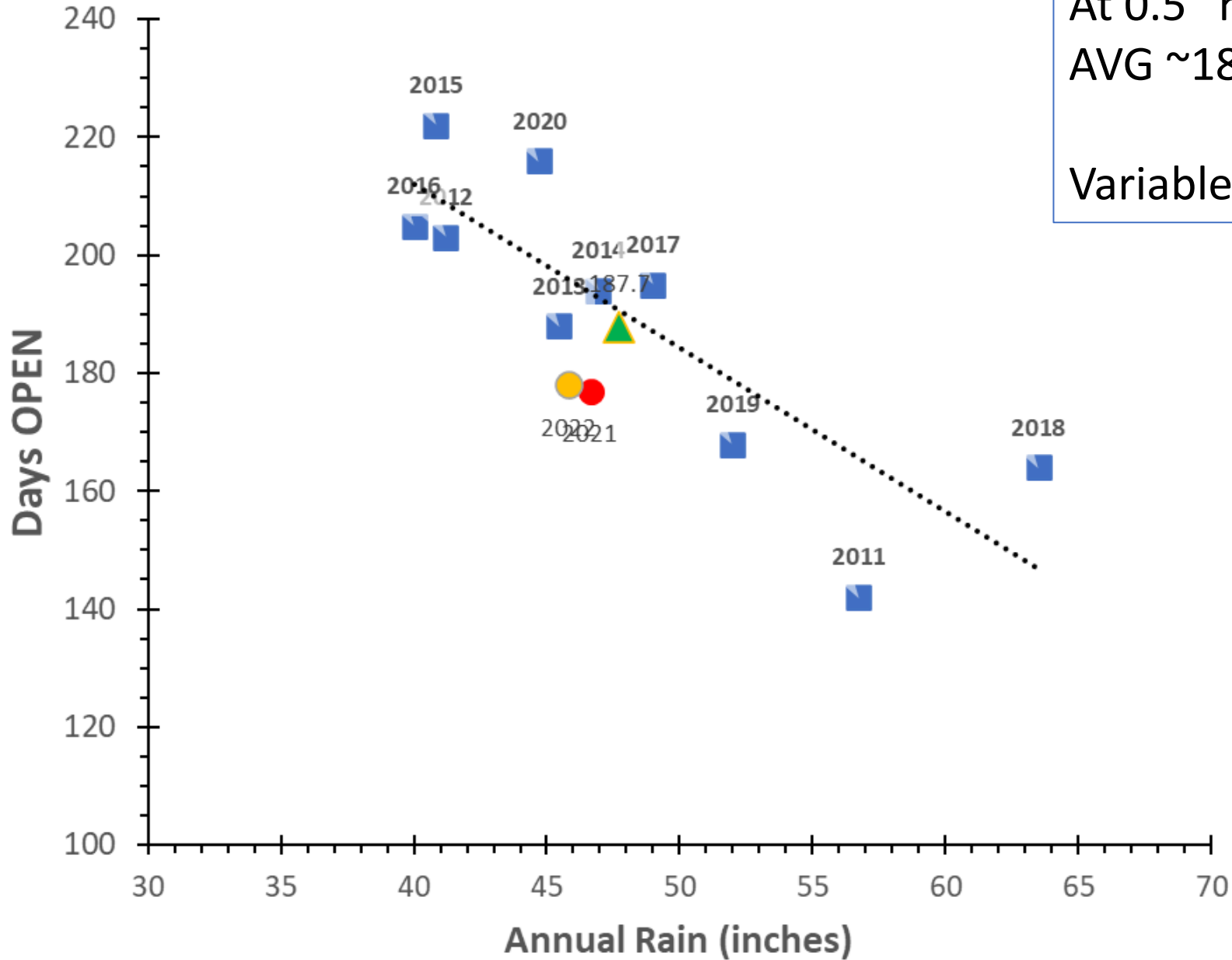
NSSP Guidance:

Growing areas that are subject to intermittent microbiological pollution from predictable pollution events may be placed in the conditionally approved or conditionally restricted classification.....

6 RI Shellfish Conditional Areas:

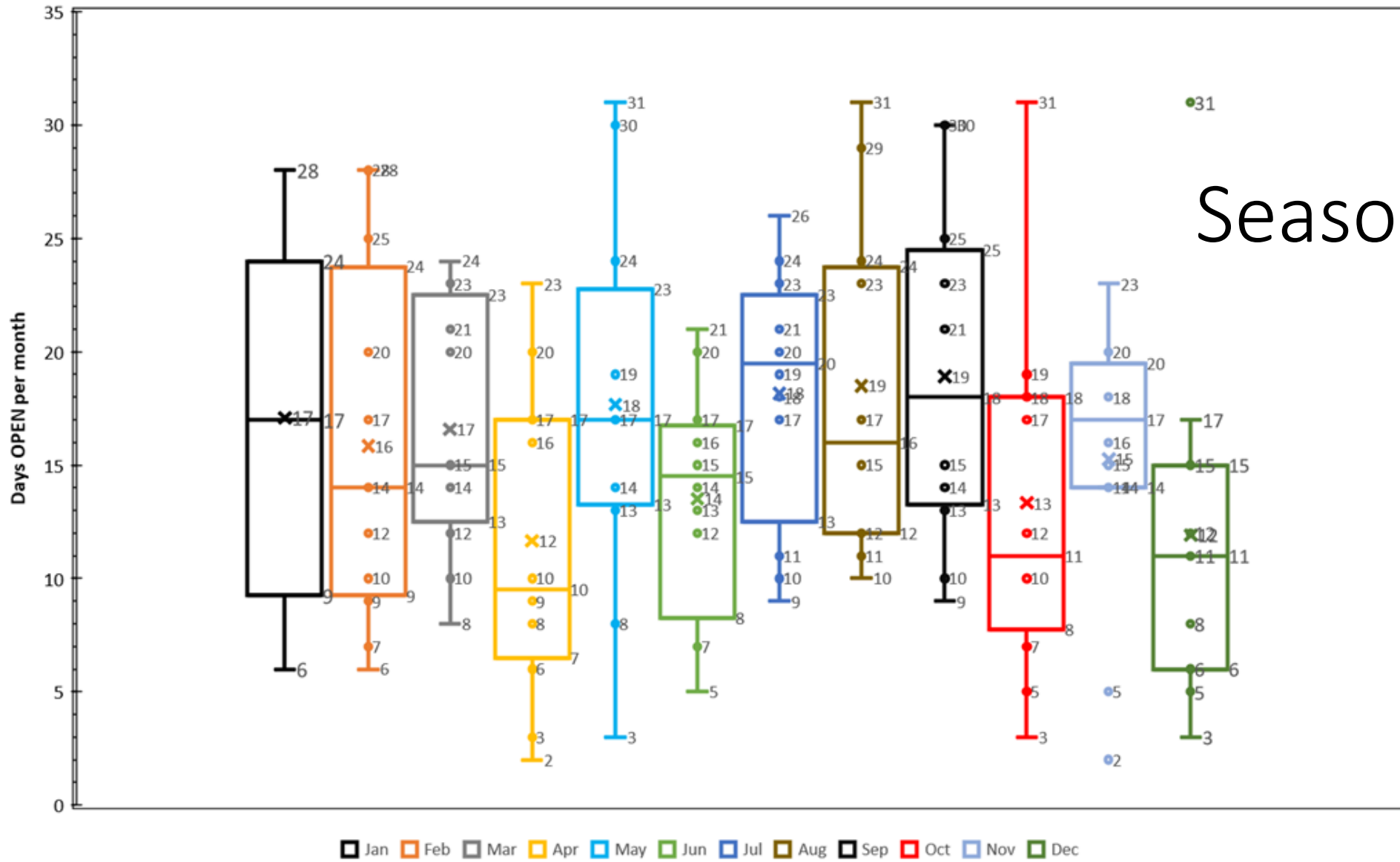
Area	Closure Rain
Providence River	0.5"
Greenwich Bay	0.5"
Mt. Hope Bay	0.5"
Kickemuit	0.5"
Upper Bay (A)	1.2"
Upper Pt. Judith Pond	1.4"

Days OPEN vs. Annual Rain



At 0.5" rain, 7-day closure:
AVG ~187 days open per year (51%)
Variable! (142 to 222 days open/ year)

Compare Days Open per Month 2011-2022



Seasonal Pattern?

	Number days OPEN by month ('open daily' schedule)											
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2011	24	14	8	6	19	15	18	12	10	3	5	8
2012	17	25	24	23	3	14	20	11	14	17	23	12
2013	28	6	10	16	17	7	21	15	14	31	20	3
2014	6	14	23	2	17	16	24	23	30	10	18	11
2015	16	28	12	20	31	7	23	12	21	19	18	15
2016	13	10	21	17	30	17	17	17	23	7	18	15
2017	6	28	23	9	8	15	11	23	23	18	14	17
2018	17	12	20	17	19	21	19	10	9	10	2	8
2019	8	17	14	3	13	13	10	29	25	10	20	6
2020	24	20	14	9	17	20	20	31	30	12	14	5
2021	22	9	15	10	14	5	9	15	13	18	16	31
2022	24	7	15	8	24	12	26	24	15	5	15	3
MAX	28	28	24	23	31	21	26	31	30	31	23	31
75th%	24.0	21.3	21.5	17.0	20.3	16.3	21.5	23.3	23.5	18.0	18.5	15.0
AVG	17.1	15.8	16.6	11.7	17.7	13.5	18.2	18.5	18.9	13.3	15.3	11.2
Median	17.0	14.0	15.0	9.5	17.0	14.5	19.5	16.0	18.0	11.0	17.0	9.5
25th%	11.8	9.8	13.5	7.5	13.8	10.8	15.5	12.0	13.8	9.3	14.0	5.8
Min	6	6	8	2	3	5	9	10	9	3	2	3

- **Seasonality?**

- For 0.5", 7-day closure:
- Variable! (December '21 vs. '22)
- No strong seasonal pattern
- (Apr, Jun, Oct, Dec) fewer open days

2022 Rain Closures

Rain (red) & Open days (green)

Open status 178 days for 2022

Rain (inches, red bars)

Open
July 6 - Aug 23
(48 days)

Month	Rain (inches)		
	2022	AVG	Delta
1	2.9	3.6	-0.7
2	5.8	3.5	2.4
3	3.6	4.8	-1.3
4	3.6	4.5	-0.9
5	1.5	3.5	-2.0
6	5.0	4.1	0.9
7	0.5	3.3	-2.8
8	1.7	3.4	-1.7
9	6.0	4.3	1.7
10	5.9	4.6	1.3
11	3.5	4.2	-0.7
12	6.0	4.9	1.2
Annual	45.8	48.6	-2.8

Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec

2022 Harvest Days

- Harvest on 28 of 43 scheduled dates (65%)
- 100% of harvest days Open May & July
- 33% of harvest dates Open December
- Rec. harvest: open 107/223 days (48% since May 23)

2022 Harvest Schedule

22. Providence and Seekonk Rivers:

a. Commercial: Open 8:00 A.M. to 11:00 A.M. only on the following dates:

(1) May 23 through September 2: Open on the first (1st) two (2) non-consecutive weekdays of each week not closed due to water quality impairment

(AA) May 30 and July 4: Closed

(BB) June 30: Open

(2) September 6 through October 28: Open one (1) day each week on the first (1st) weekday which is not closed due to water quality impairment

(AA) October 10: Closed

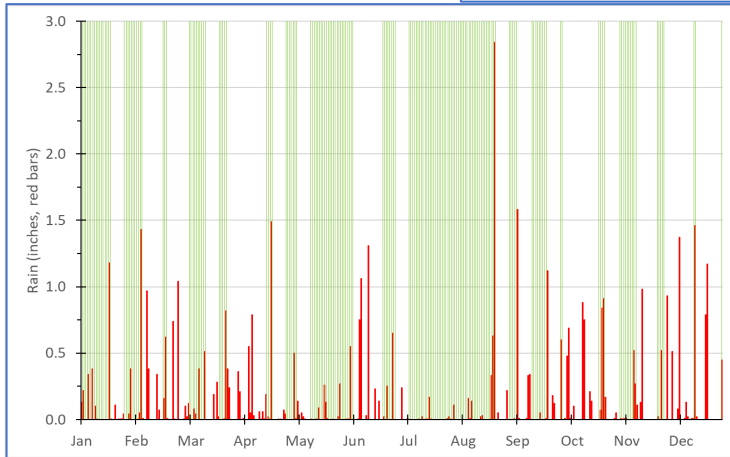
(3) December 12 through December 30: Open one (1) day each week on the first (1st) weekday which is not closed due to water quality impairment

Month	Rain (inches)			Harvest Schedule			
	2022	AVG	Delta	Days Open (rain)	Potential Days Open (fishery)	Actual Days Open	% Days Open
1	2.9	3.6	-0.7	24	0	0	
2	5.8	3.5	2.4	7	0	0	
3	3.6	4.8	-1.3	15	0	0	
4	3.6	4.5	-0.9	8	0	0	
5	1.5	3.5	-2.0	24	3	3	100%
6	5.0	4.1	0.9	12	10	4	40%
7	0.5	3.3	-2.8	26	8	8	100%
8	1.7	3.4	-1.7	24	10	7	70%
9	6.0	4.3	1.7	15	5	3	60%
10	5.9	4.6	1.3	5	4	2	50%
11	3.5	4.2	-0.7	15	0	0	
12	6.0	4.9	1.2	3	3	1	33%
			Total-->	178	43	28	65%

Problem: Rain closures variable; Alter harvest schedule actual days open

Approach: Merge 2011 – 2022 rain closure data with various commercial quahog harvest schedule scenarios to determine variability in open harvest days per year.

Assumptions: Commercial harvest (Mon-Friday, before noon); no WWTF bypass closures (ended in 2021).



Rain Closures
each year
2011-2022

Harvest Schedule

Harvest Days Open
each year
2011-2022

22. Providence and Seekonk Rivers:

a. Commercial: Open 8:00 A.M. to 11:00 A.M. only on the following dates:

(1) May 23 through September 2: Open on the first (1st) two (2) non-consecutive weekdays of each week not closed due to water quality impairment

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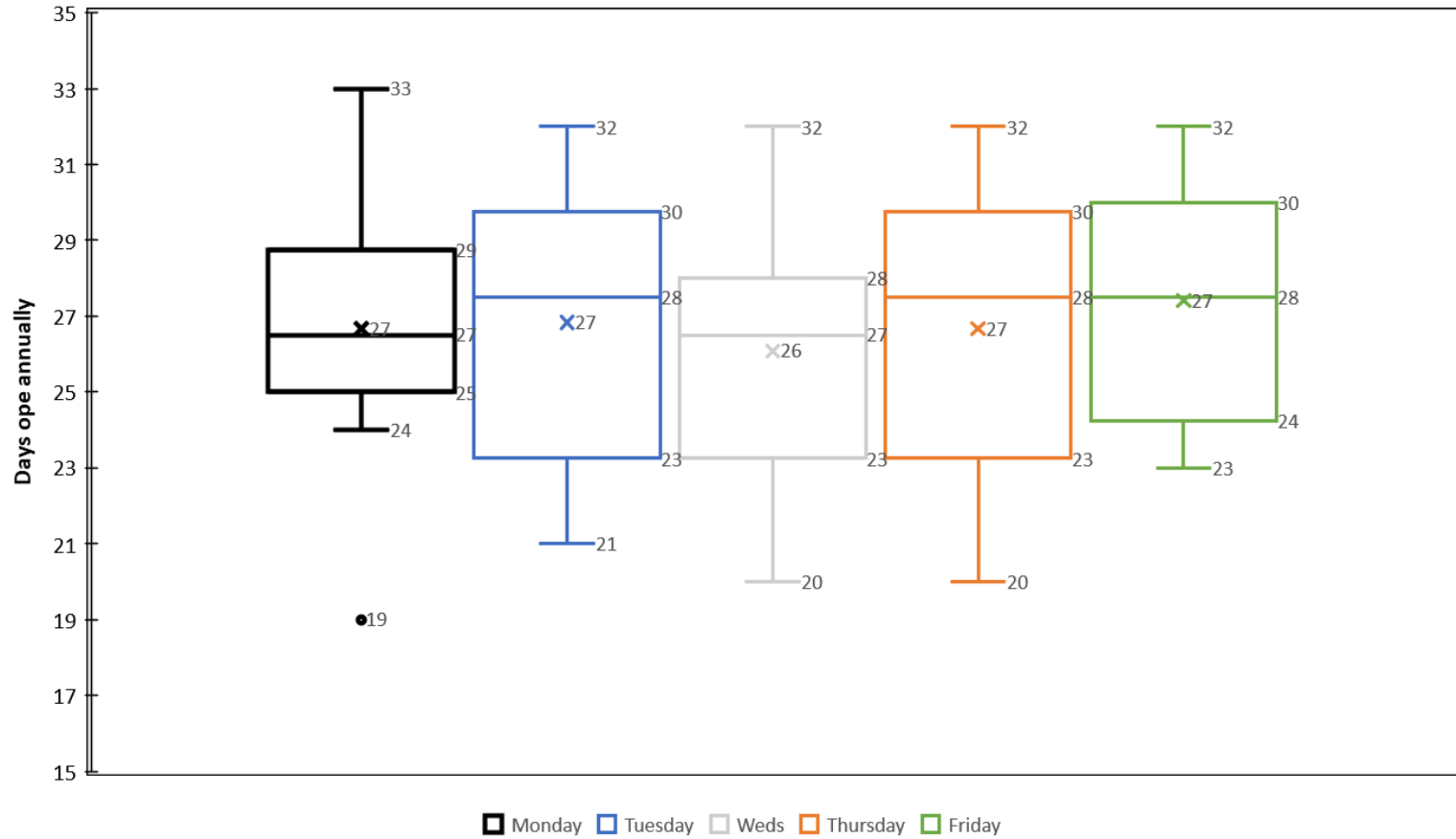
(2) September 6 through October 28: Open one (1) day each week on the first (1st) weekday which is not closed due to water quality impairment

(AA) October 10: Closed

(3) December 12 through December 30: Open one (1) day each week on the first (1st) weekday which is not closed due to water quality impairment

Scenario: Harvest 1 fixed day per week, year-round

Compare weekdays

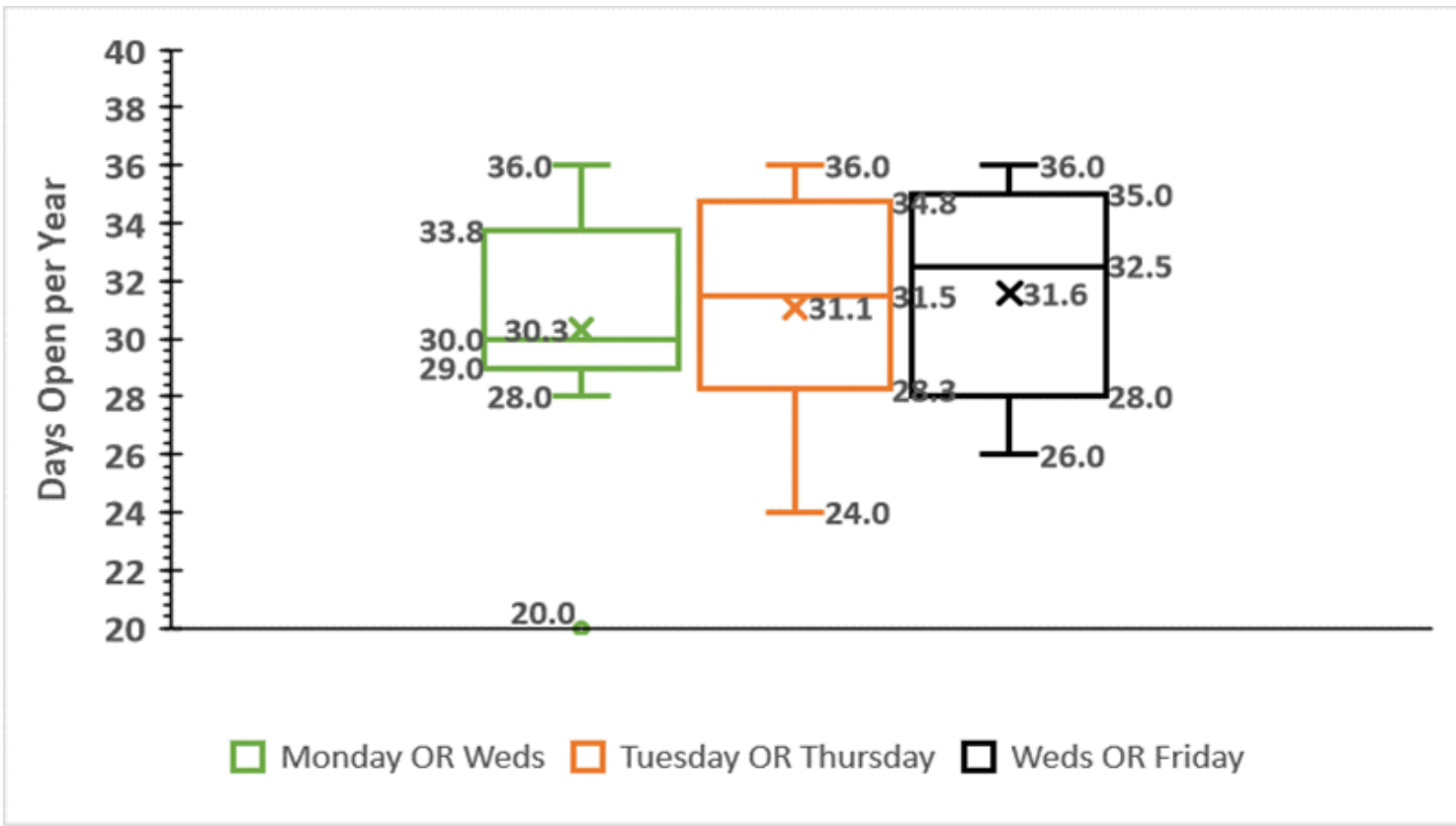


Year	Number of days OPEN each year				
	Monday	Tuesday	Weds	Thursday	Friday
2011	19	21	20	20	24
2012	29	30	28	30	29
2013	27	28	27	25	27
2014	27	28	27	27	28
2015	33	31	31	31	32
2016	28	29	28	29	30
2017	26	27	26	28	30
2018	25	23	23	23	23
2019	25	24	23	23	23
2020	31	32	32	32	31
2021	26	26	24	24	25
2022	24	23	24	28	27
MAX	33	32	32	32	32
75th%	28.3	29.3	28.0	29.3	30.0
AVG	26.7	26.8	26.1	26.7	27.4
MEDIAN	26.5	27.5	26.5	27.5	27.5
25th%	25.0	23.8	23.8	23.8	24.8
MIN	19	21	20	20	23

Schedule: 1 day per week

- Average: 26-27 days per year
- ~50% harvest days open
- Range: 19 to 33 days per year
- No difference by day of week

Scenario: Harvest 1 day per week, (non-consecutive days, 1st open), year-round



Year	Monday OR Weds	Tuesday OR Thursday	Weds OR Friday
Y2011	31	31	31
Y2012	33	33	33
Y2013	31	33	32
Y2014	33	31	32
Y2015	33	33	33
Y2016	31	31	31
Y2017	33	33	33
Y2018	33	31	33
Y2019	33	33	31
Y2020	33	33	33
Y2021	31	33	33
Y2022	31	33	31
MIN	31	31	31
25th %	33	33	33
AVG	30.3	31.1	31.6
Median	31	31.5	31.5
75th%	33.5	34.5	35
MAX	36	36	36

- Average: 30-32 days open per year
- Gain ~6 days per year vs. fixed day
- ~60% harvest days open
- Range: 20 to 36 days per year
- No difference by days of week

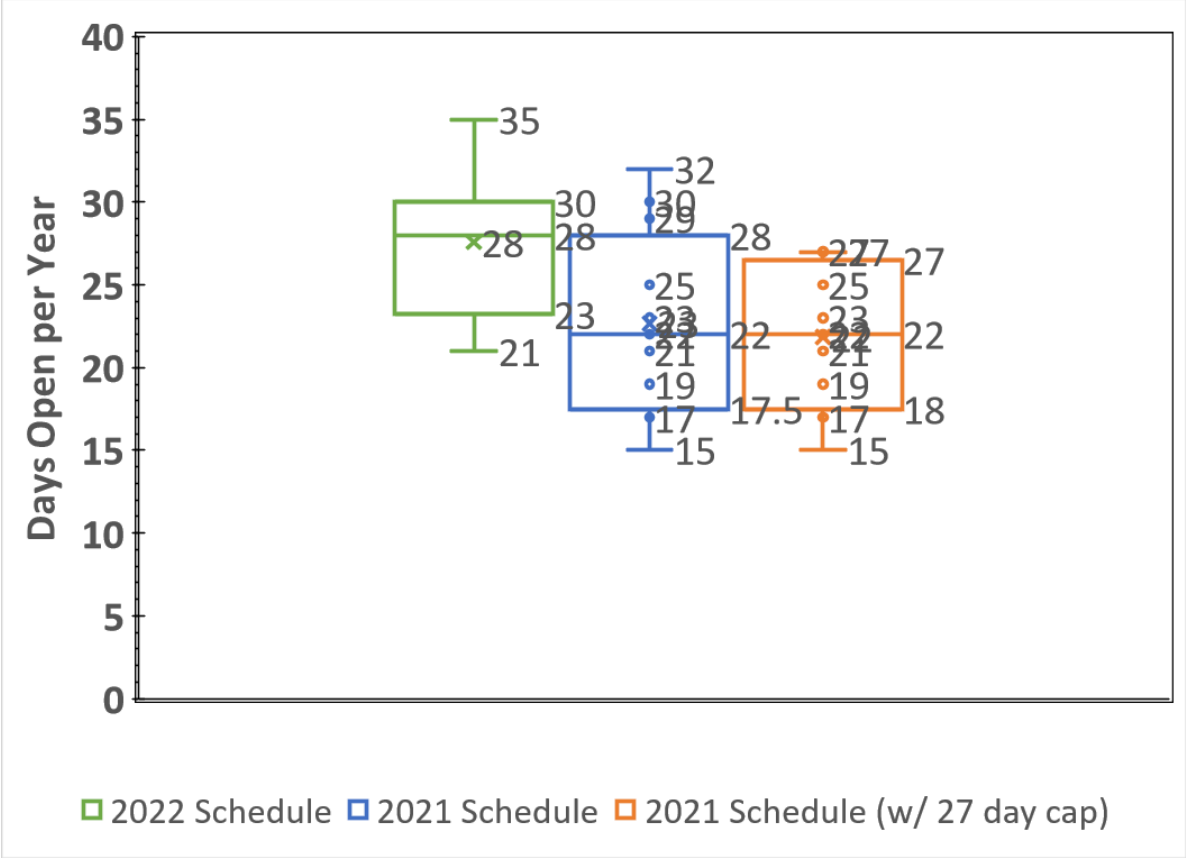
Scenario: Harvest 1 day per week, (1st day available), year-round

Year	1st available 1 per week
Y2011	29
Y2012	42
Y2013	34
Y2014	40
Y2015	40
Y2016	41
Y2017	36
Y2018	34
Y2019	34
Y2020	38
Y2021	32
Y2022	37
MIN	29.0
25th %	34.0
AVG	36.4
Median	36.5
75th%	40.0
MAX	42.0

- Average: 36 days open per year
- Gain ~10 harvest days per year vs. fixed day schedule
- ~69% of harvest days open
- Range: 29 (2011) to 42 (2012) harvest days per year

Scenario: 2021 & 2022 Harvest Schedules

- Average:
 - 2021 Sch: ~22-23 days open per year
 - 2022 Sch: ~28 day open per year
- Average of 64% to 81% of scheduled harvest days open
- Range: 15 (2021) to 35 (2020) days open per year
- 2021 Schedule (w/27-day cap) = fewer days



Year	2022 Schedule	2021 Schedule	2021 Schedule (w/ 27 day cap)
Y2011	21	19	19
Y2012	27	17	17
Y2013	22	17	17
Y2014	32	30	27
Y2015	30	21	21
Y2016	30	23	23
Y2017	27	22	22
Y2018	28	22	22
Y2019	29	25	25
Y2020	35	32	27
Y2021	22	15	15
Y2022	28	29	27
MIN	21.0	15.0	15.0
25th %	25.8	18.5	18.5
AVG	27.6	22.7	21.8
Median	28.0	22.0	22.0
75th%	30.0	26.0	25.5
MAX	35.0	32.0	27.0
MAX Comm Harvest Days	43	30	27
AVG % Open Days	64%	76%	81%

	Harvest Scenario	Units = number OPEN harvest days per year					
		MIN	25th %	AVG	Median	75th%	MAX
36 days	1st available 1 per week	29	34.0	36.4	36.5	40.0	42
31 days	Monday OR Weds	20	29.0	30.3	30.0	33.3	36
	Tuesday OR Thursday	24	28.8	31.1	31.5	34.3	36
	Weds OR Friday	26	28.0	31.6	32.5	35.0	36
27 days	Monday	19	25.0	26.7	26.5	28.3	33
	Tuesday	21	23.8	26.8	27.5	29.3	32
	Weds	20	23.8	26.1	26.5	28.0	32
	Thursday	20	23.8	26.7	27.5	29.3	32
	Friday	23	24.8	27.4	27.5	30.0	32
	2022 Schedule	21	25.8	27.6	28.0	30.0	35
22 days	2021 Schedule	15	18.5	22.7	22.0	26.0	32
	2021 Schedule (w/ 27 day cap)	15	18.5	21.8	22.0	25.5	27

Summary

- 2022 Comm. Harvest: 28 of 43 days (65% open); Rec: 107of 223 days (48% open)
- Annual variability in rain closures & days open (142 to 222 days open per year)
- No regular seasonal closure pattern
- Fixed schedule (1 day per week, etc.) = open ~50% of days
- Contingencies (1st available, Tues OR Thurs) increase % days open
 - 1st of two days (Tues OR Thurs, etc.) = open ~31 days/year (60% open)
 - 1st available 1X per week = open 36 days/year (69% open)
- 2022 schedule (~28 days open per year) not different than 1-day per week
- 2021 schedule (~22 days open per year) = fewer open days than 2022 or 1-day per week schedules
- 2011-2022 rain closure data available for other harvest schedule scenario testing

7. Quahog Simulator – 2023 Update



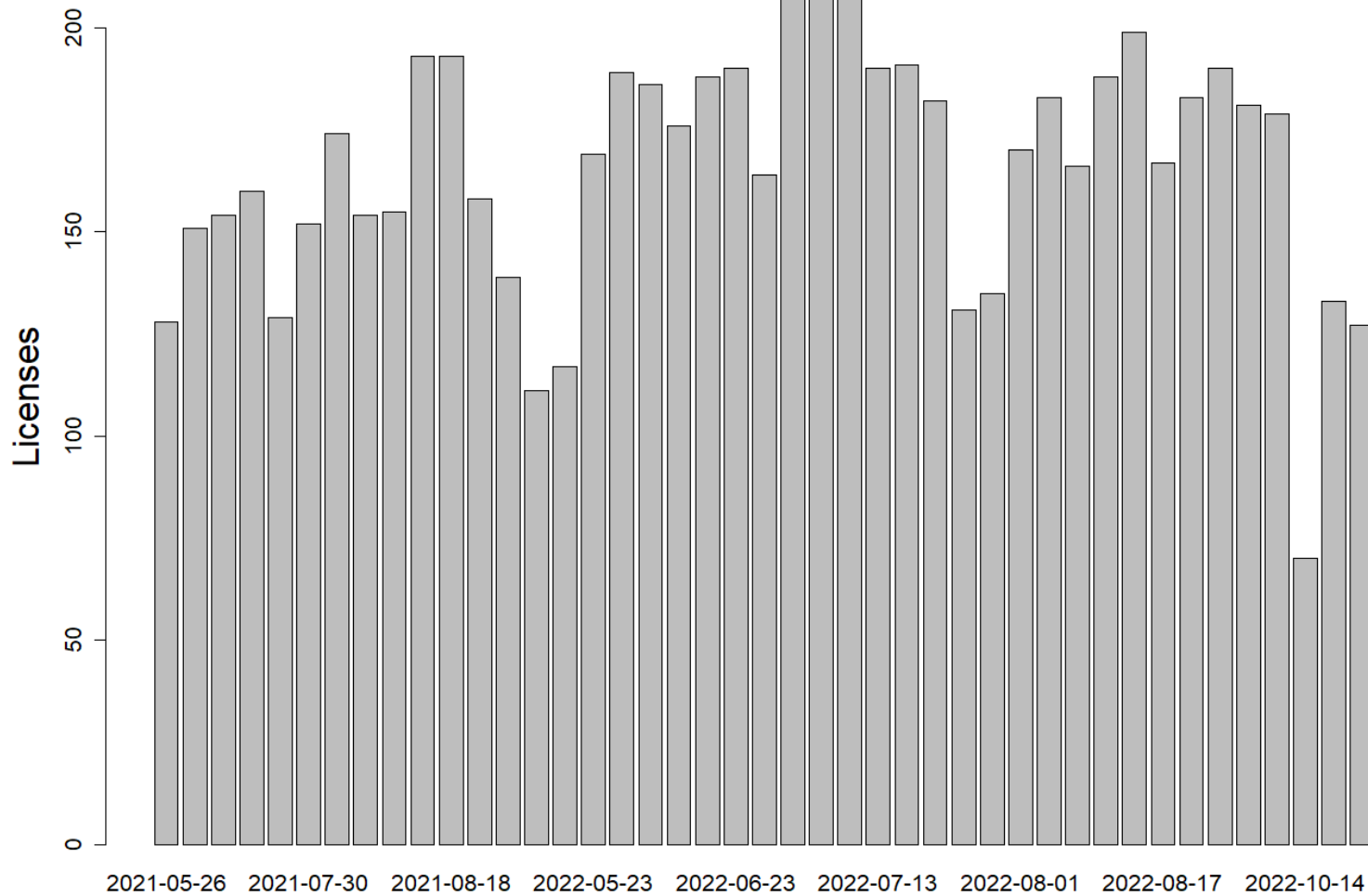
Summary

- Simulator is used to estimate the rate (e.g. number of days) a certain number of quahogs (e.g. previously estimated MSY) may be harvested.
- Simulator uses catch rates of harvesters and the number of people fishing in a given day for Area E in 2021 and 2022.
- Simulator run 1000 times to capture variability in daily participation in Area E and differences in harvesters catch rates.
- Each iteration sums the catch over participants to derive a daily harvest. This is then divided the MSY by the daily harvest to understand how many days that would equate to.

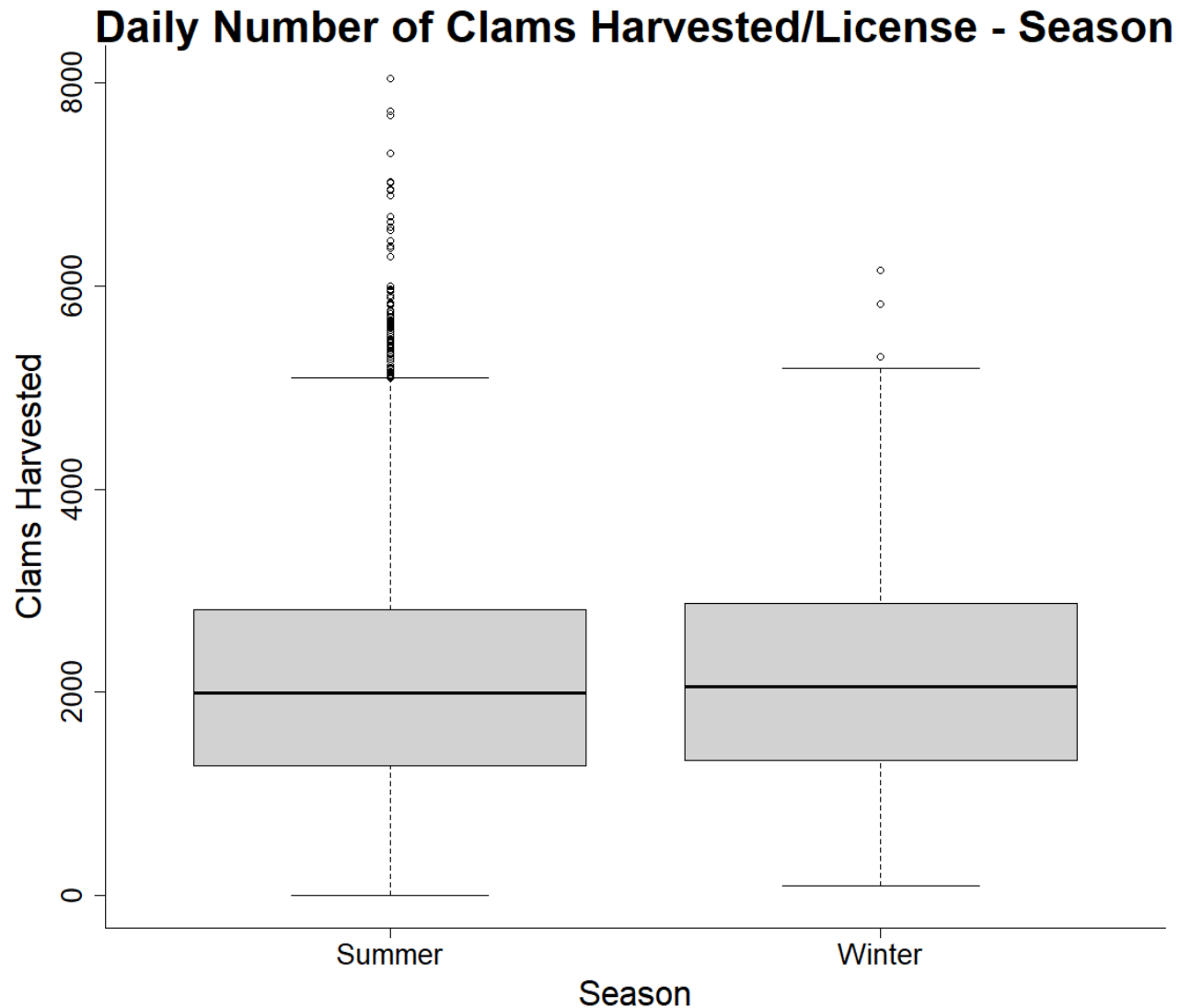
7. Quahog Simulator – Licenses by Date



Daily Number of Licenses with Landings from Area E

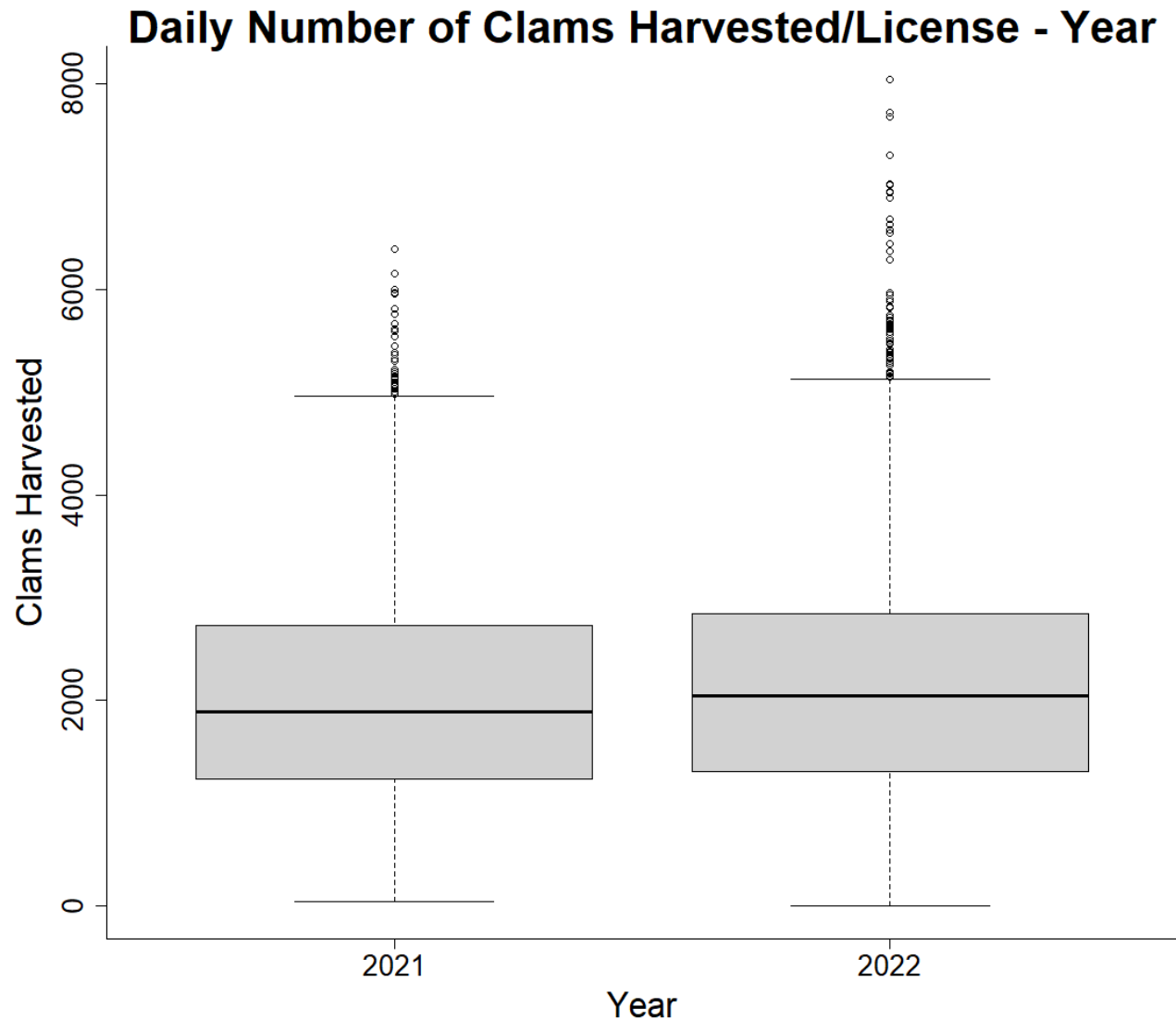


7. Quahog Simulator – Harvest Rates



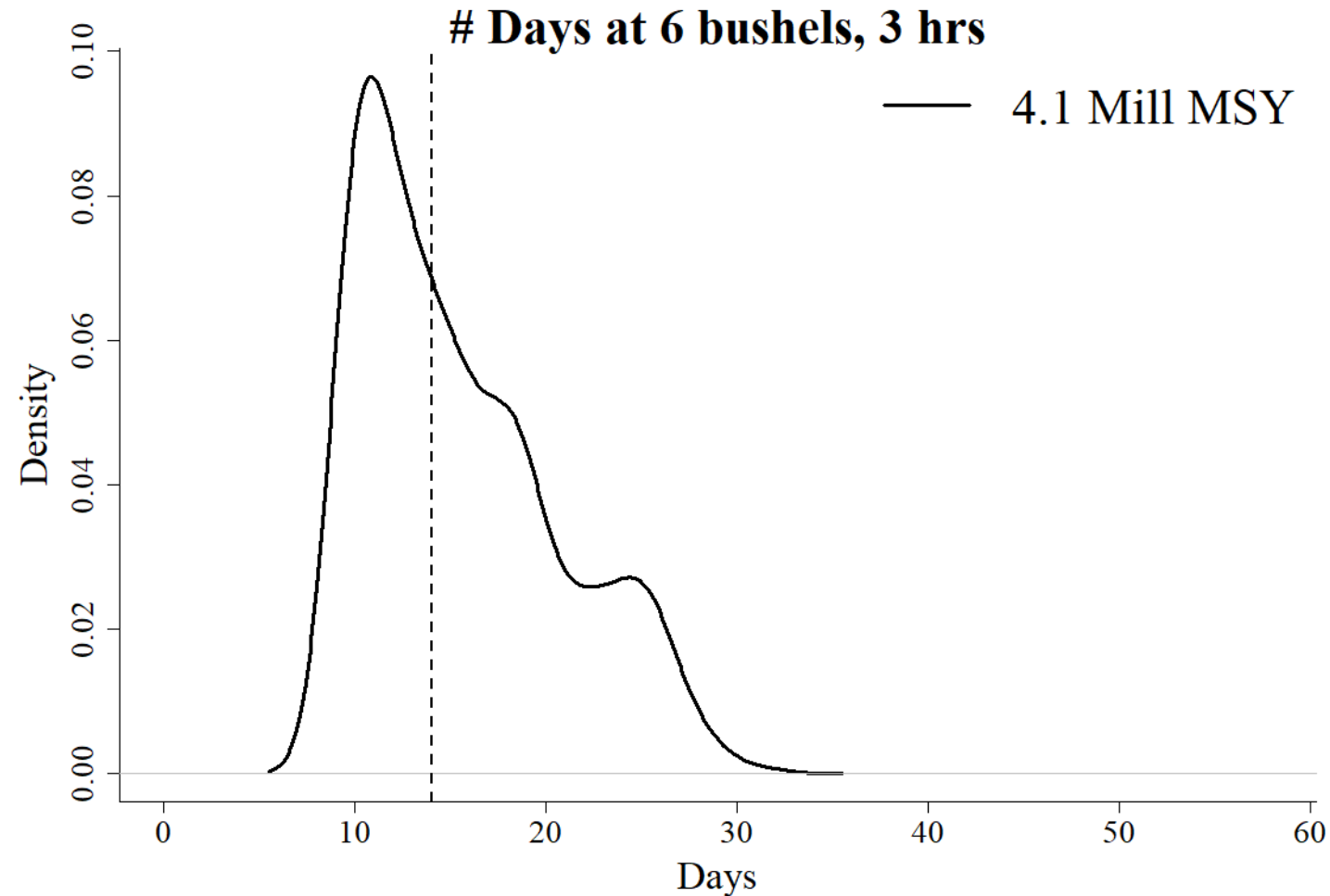
- We looked to see if the distribution of catch rates differed based on summer and winter participation.
- We found no statistical significant difference between the two seasons' catch rates per license.

7. Quahog Simulator – Harvest Rates



- We also looked to see if the distribution of catch rates differed between the 2021 and 2022 and if there are important year-specific elements to consider for catch rates.
- We found no statistical significant difference between the two years' catch rates per license.

7. Quahog Simulator – Results



- Days at 6 bushels, 3 hrs
 - Median: 14
 - Range: 9-31

- As anticipated, the shorter openings would allow for more days.
- With added 2022 data, median estimate slightly rose, and range expanded compared to 2021 estimates

7. Quahog Simulator – Scenarios



Feedback provided to the Division thus far from Industry

- Keep openings at 3 hrs on a given day (i.e. not 2 hrs.)
- Differing opinions on seasonality.
 - Example: 1 day a week year-round vs. winter closed and use those days when market is stronger.
- Only 1 license per boat.
- 2 days before Memorial Day through June and 1 day after July 1st.
- Fixed day schedules as opposed to rolling openings every week.
- Closure triggers
 - Example: If Area E has no rain closure days for two consecutive weeks, the following week will automatically close.
 - Example: If Area E is open for 20 days prior to December, then the area will close until eligible December harvest days.
- Increased concerns on the number of clams harvested and not reported and reported landings on days when the river was closed.

7. Quahog Simulator – Scenarios



- Division Proposal (Commercial) - Total Possible Days = 24
 - Every Tuesday and Thursday from the week of May 23 through week of June 21
 - Every Tuesday from the week of July 3 through August 28
 - One rolling opening day during the weeks of December 4, December 11, December 18
- Days presented here are an option, no preference on specific dates
- Support for fixed days over rolling days.
- If proposals seeking additional days, then the Division will likely propose a closure triggers based on a cumulative days open number.

- Division Proposal (Recreational) - Status Quo
 - The Division has not received any feedback to-date on proposed recreational measures.

8. Providence River 2022 Harvest Schedule Discussion



- Questions on simulator methods
- Other considerations to run in the simulator:
 - Opening length (e.g. 2 hr vs 3 hr opening)?
 - Bushel limit changes (e.g. 6 vs 4 bushels)?
 - Licenses per boat (i.e. 1 or 2)?
 - Account for unreported catch or discard impacts?
- Any feedback on recreational measures?

8. Providence River 2022 Harvest Schedule Discussion



Questions and Discussion

Next Steps

- Proposals submitted by email to Eric Schneider eric.schneider@dem.ri.gov by 12:00 PM March 17, 2023
- Next SAP meeting March 22, 2023 at 4:30, Hazard Room, URI GSO



8. Any Other Matters?



9. Adjourn

Shellfish Advisory Panel

March 8, 2023; 4:30PM

URI Bay Campus Hazard Room/

Virtual public meeting - Zoom webinar

MEETING SUMMARY

RIMFC members: K. Eagan (Chair), M. Rice (Scientific Advisor)

DEM: A. Gerber-Williams, P. Barrett, E. Schneider, M. Ogren, Chris Duguid (DLE);

SAP members present: C. Ennis, D. Erkan, B. Bica, D. Ghigliotty, G. Schey, J. McDonald, K. Murgo, M. Sousa, R. Tellier, E. Troiano,

- **Aquaculture Application 2022-04-046 (Roger Williams University; Mt. Hope Bay):**

Motion made by C. Ennis to recommend to the CRMC that the proposed lease application is consistent with competing uses engaged in the exploitation of the marine fisheries; 2nd by B. Bica. The motion passed 10-0

- **Other topics of discussion (non-voting items):**

- Greenwich Bay Transplant
- Shellfish Restoration and Enhancement Plan
- Providence River Shellfish Management Area and 2023 harvest schedule
 - DEM DMF Dredge Survey Results
 - 2022 Harvest Summary
 - 2022 Rainfall Closures
 - 2023 Harvest Schedule

- **Adjourn**

Meeting recording go [here](#)

Adjourned at 6:25PM.

SHELLFISH ADVISORY PANEL

**URI BAY CAMPUS/GSO
HAZARD ROOM (COASTAL INST. BUILDING)**

**PUBLIC MEETING
&
ZOOM WEBINAR**

APRIL 22, 2023





Virtual Meeting Participation

- ✓ All participants will be muted throughout the meeting.
- ✓ To make a comment or ask a question you must use the **Raise Hand** feature in the zoom webinar.
- ✓ The meeting facilitator will un-mute one participant at a time to make their comment or ask their question, the participant will then be re-muted.

Please remain muted unless speaking – Thank you!



AGENDA

1. Providence River Harvest Schedule
2. Any other matters
3. Adjourn

Providence River Harvest Schedule



Proposal 1 (Michael Monteforte, Sr):

- Commercial:
 - Open year round one weekday each week on the first day of the week not closed due to rainfall closure.
 - Possession limit: 3 bu./person/day; 3 bu./vsl/day

Results in 52 potential days open; assuming 50% rainfall closures = 26 estimated harvest days

Providence River Harvest Schedule



Proposal 2 (Kyle Terra):

- Commercial:
 - June 1- October 28: Open 8am-9am on Monday and Wednesday
 - Possession limit: 6 bu./person/day
 - Close when MSY is met

Results in 42 potential days open; assuming 50% rainfall closures = 21 estimated harvest days

Providence River Harvest Schedule



Proposal 3 (John McDonald):

- Commercial:
 - Open 8-11am
 - Open May 24 and 26
 - May 30 – Sept. 1: Open first 2 allowable, non-consecutive weekdays each week
 - Closed Memorial Day and July 4
 - Closed Sept. – November
 - Dec. 6 – March 27: Open Wednesdays
 - Possession limit: 6 bu./person/day

Results in 47 potential days open; with rainfall closure rates resulting in an estimated 28 harvest days:

- 28 potential non-fixed days with 30% rainfall closure rate = 19.6 days (Summer)
- 19 potential fixed days with 50% rainfall closure rate = 8.5 days (May 24&26, Winter)

Providence River Harvest Schedule



Proposal 4 (Todd Lander):

- Commercial:
 - Open daily, year round
 - Sunrise to sunset
 - Maintain person and vessel daily limit?

- or -

- Open daily, year round
- 3 hour opening
- Unlimited possession limit
- Temporary time period

Results in 365 potential days open; assuming 50% rainfall closures = 183 harvest days

Providence River Harvest Schedule



Proposal 5 (Rhode Island Shellfisherman's Association):

- Commercial:
 - May 22 - Sept 1: Mon and Wed, plus Tues 6/27
 - Sept 5 - Oct 31: Tues
 - Dec: Open Tues for the weeks of 12/11, 12/18 and 12/25
 - Timing: Open 8-11am?
 - Possession limit: 6 bu./person/day

Results in 43 potential days open; assuming 50% rainfall closures = 22 estimated harvest days

Providence River Harvest Schedule



SAP Motion for the commercial harvest schedule for the Providence River during 2022:

Motion should include:

- No of days
- Data ranges
- Time of day (3-hr, 8-11)
- Possession limit, vessel limit

Providence River Harvest Schedule



Motion: to recommend to the Council the following **commercial** harvest schedule for the Providence River during 2022:

Text from previous slide

Motion made by:

Motion 2nd by:

Yea:

Nay:

Abstain:

Providence River Harvest Schedule



1. **Recreational** harvest schedule for the Providence River during 2022

Status Quo:

- Recreational shore digging: Open daily, at the one peck per person per day from sunrise until sunset.
- Recreational other than shore digging: Closed

Providence River Harvest Schedule



Motion: to recommend to the Council the following **recreational harvest schedule for the Providence River during 2023:**

Motion made by:

Motion 2nd by:

Yea:

Nay:

Abstain:



2. Any Other Matters?



3. Adjourn

Shellfish Advisory Panel

March 22, 2023; 4:30PM

URI Bay Campus Hazard Room/

Virtual public meeting - Zoom webinar

MEETING SUMMARY

RIMFC members: K. Eagan (Chair), M. Rice (Scientific Advisor)

DEM: A. Gerber-Williams, P. Barrett, E. Schneider, M. Ogren, Chris Duguid (DLE);

SAP members: C. Ennis, D. Erkan, B. Bica, J. Gardner, D. Ghigliotty, J. Grant, M. McGiveney, G. Schey, J. McDonald, K. Murgo, M. Sousa, R. Tellier, E. Troiano;

Public: J. Boyd, D. Eagan, B. Eastman, Jerry Carvalho, T. McGiveney, M. Monteforte Sr., T. Lander, K. Terra, C. Jackson, B. Briere

- **Providence River Shellfish Management Area 2023 Harvest Schedule:**

Proposal 1 submitted by M. Monteforte, Sr.:

- Commercial:
 - Open year round one weekday each week on the first day of the week not closed due to rainfall closure.
 - Possession limit: 3 bu./person/day; 3 bu./vsl/day

Results in 52 potential days open; assuming 50% rainfall closures = 26 estimated harvest days.

M. Monteforte, Sr. spoke to his proposal and reiterated that he would like to see the area open all year, similar to Greenwich Bay. He offers the lower possession limit because he doesn't want to see what happened in the lower bay happen to the upper bay and Providence River. He doesn't want to overburden the resource in the river.

Proposal 2 submitted by K. Terra:

- Commercial:
 - June 1 – October 28: Open 8am – 9am on Monday and Wednesday.
 - Possession limit: 6 bu./person/day
 - Close when MSY is met

Results in 42 potential days open; assuming 50% rainfall closures = 21 estimated harvest days.

Proposal 3 submitted by J. McDonald:

- Commercial:
 - Open 8-11am
 - Open May 24 and 26
 - May 30 – Sept. 1: Open first 2 allowable, non-consecutive weekdays each week
 - Closed Memorial Day and July 4
 - Closed Sept. - November
 - Dec. 6 – March 27: Open Wednesdays
 - Possession limit: 6 bu./person/day

Results in 47 potential days open; assuming 50% rainfall closures = 28 estimated harvest days. 28 potential non-fixed days with 30% rainfall closure rate = 19.6 days (summer). 19 potential fixed days with 50% rainfall closure rate = 8.5 days (May 24 & 26, winter).

J. McDonald spoke to his proposal stating that it is similar to last year's harvest schedule but wants mid-week openings in the winter for dealers to move product before the weekend. He also wants to see more of a year-round schedule so as to minimize the import of clams shipped up from Virginia and served in the local seafood market, he would like to see it remain more local.

Proposal 4 submitted by T. Lander:

- Commercial:
 - Open daily, year round
 - Sunrise to sunset
 - Possession limit: maintain person and vessel daily limit
- Or
 - Open daily, year round
 - 3 hour opening
 - Unlimited possession limit
 - Temporary time period

Results in 365 potential days open; assuming 50% rainfall closures = 183 estimated harvest days.

T. Lander prepared and read a written statement, which touched upon many points including;

- The landings data show how inaccurate the DEM dredge survey is
- He would like to see an aggressive survey assessing population densities and sustainability

- To raise the minimum size of quahogs

Proposal 5 submitted by the Rhode Island Shellfisherman's Association:

- Commercial:
 - May 22 – Sept. 1: Monday and Wednesday, plus Tuesday 6/27
 - Sept. 5 – Oct. 31: Tuesday
 - Dec.: Open Tuesday for the weeks of 12/11, 12/18 and 12/25
 - Timing: Open 8-11am
 - Possession limit: 6 bu./person/day

Results in 43 potential days open; assuming 50% rainfall closures = 22 estimated harvest days.

Proposal 6 submitted by the Rhode Island Seafood Company:

- Commercial:
 - Starting May 22nd: First available Monday, Tuesday, Wednesday
 - One day a week for whole year until 24 days have been used
 - Timing: Open 8-11am
 - Possession limit: 6 bu./person/day; 2 licenses per boat

Results in 24 potential days open; assuming 50% rainfall closures = 12 estimated harvest days.

K. Eagan stated that the proposals were now open to discussion. *R. Rice* said that allowing harvest to bump up against the MSY is not a good idea and that years of research and management shows that you should aim for 70% of MSY for true sustainability. *D. Erkan* asked whether most people fished 6 bushels and it was concluded that people harvested an average of 2,000 pieces in 2022. *K. Terra* said that he doesn't want to see prices go down like they did during last year's harvest. *M. Monteforte* agreed with *K. Terra* and said that this is a case of supply and demand, which is an important issue and that they need to be careful with not harvesting too much as to cause a price drop. He continued that they would end up working harder and getting less money back in a day. DLE Captain *C. Duguid* stated that enforcement would like to see a closure of the area when the MSY is met. They would also prefer a fixed summer schedule but could handle a rolling schedule in December. *D. Erkan* asked the Division of Marine Fisheries whether there was a discussion of performing a Condition Index assessment of clams north of the Providence River open area and *P. Barrett* replied that there currently was no talk of such assessment but that the Division would look into such information. *B. Bica* said that he brought with him to the meeting 60 signatures from Rhode Island Clam of individuals supporting the RISA proposal. *D. Ghigliotti* also brought 24 signatures of support for the RISA harvest proposal. *J. McDonald* stated that they need to be cautious of a feast and famine scenario and error on a more conservative year-round schedule. In reference to the RISA proposal, *J. McDonald* said that he and the people that he represents would prefer one day per week. Also, in reference to the RISA proposal, *B. Bica* stated that he would prefer non-consecutive days/week so as to more easily clear out product.

- **Motion made by G. Schey to recommend to the Marine Fisheries Council to adopt the proposed RISA commercial harvest schedule for the Providence River Management Area during 2023; 2nd by M. Sousa; amended by M. McGiveney:**

- **Open 8AM – 11AM with a 6 bushel/license/day harvest limit on the following days:**

- **May 22 – September 1: Monday and Wednesday, including Tuesday June 27.**
- **September 5 – October 31: Tuesdays**
- **December: Open the first available weekday the weeks of the 11th, 18th, and 24th, and closed on the 25th.**

The motion passed 11-0-1 (D. Erkan abstained)

G. Schey asked that the SAP revisit the Providence River harvest schedule in September during the shellfish management areas winter harvest schedule meeting to discuss potentially adding additional harvest days in the winter if they end up having a rainy season and losing a lot of scheduled harvest days during the summer. *M. Rice* did not agree with the proposal stating that it did not meet any type of standing stock closure and recommended setting a closure at a certain landings threshold so that 75% of MSY is not exceeded. He further urged DEM to determine what that threshold biomass should be and to use that number to cap the harvest.

- **Motion made by R. Tellier to recommend to the Marine Fisheries Council to keep the recreational harvest schedule for the Providence River Management Area during 2023 status quo; 2nd by J. Gardner: The motion passed 12-0-0.**
 - **Recreational shore digging: Open daily, at the one peck per person per day from sunrise until sunset.**
 - **Recreational other than shore digging: Closed**

- **Public comment on any matters not on the agenda**

M. McGiveney requested an item be added to the next SAP meeting to discuss opening the Potowomut spawner sanctuary to harvest since there hasn't been any transplants into that area in many years. Additionally, he would like to have the DMF perform a comprehensive study of all the closed shellfish areas in Greenwich Bay. *M. Monteforte, Sr.* added that he would like to do more volunteer transplants. *J. Gardner* would like to test the spawner sanctuaries in the coastal ponds for population densities to determine whether they are providing a brood stock to the rest of the ponds. *M. Sousa* asked the DMF when the Sapowet management area was last sampled for clams and requested that the Division provide more information on the population numbers from that last survey. *J. Carvalho* stated that the Providence River would be better operated under a timeframe schedule rather than a possession limit.

Meeting recording go [here](#)

- **Adjourn**

Adjourned at 6:25PM.

Proposed Rule Summary
Part 3 - Finfish

1. **Proposed amendments to recreational black sea bass management (section 3.9.1):**

- a. **Proposal #1 (industry proposal):**
 - Increase minimum size for both general recreational mode and party/charter mode from 16 to 16.5 inches
- b. **Proposal #2 (industry proposal):**
 - Increase minimum size for general recreational mode only from 16 to 16.5 inches (no change in minimum size proposed for party/charter)
- c. **Proposal #3 (industry proposal):**
 - Increase minimum size for both general recreational mode and party/charter mode from 16 to 16.5 inches;
 - Amend party/charter season opening date from June 18 to June 17 (no change in seasons for general recreational)
- d. **Proposal #4 (industry proposal):**
 - Increase minimum size for both general recreational mode and party/charter mode from 16 to 16.5 inches;
 - Amend general recreational 1st sub-period closure date from August 31 to August 26; amend 2nd sub-period opening date from September 1 to August 27 (no changes in seasons proposed for party/charter)

2. **Proposed amendments to recreational scup management (section 3.10.1):**

- a. **Proposal #1 (regional proposal):**
 - Adopt “private and rental” and “shore” modes (maintain separate party/charter mode);
 - Increase minimum size for “private and rental” mode from 10 inches to 10.5 inches;
 - Adopt minimum size for “shore” mode of 9.5 inches;
 - Eliminate special shore site rules (adopt full “shore” mode);
 - Party/charter:
 - Increase minimum size from 10 inches to 10.5 inches;
 - Decrease possession limit in 2nd sub-period (Sept. 1 – Oct. 31) from 50 to 40 fish/person/day.
 - Amend season opening date from January 1 to May 1 for all modes.
- b. **Proposal #2 (industry proposal):**
 - Increase minimum size from 10 to 10.5 inches
 - Increase minimum size for special shore sites from 9 to 9.5 inches.

3. **Proposed amendments to commercial striped bass general category management (section 3.11.2(A)):**

- a. Proposal #1 (Division proposal):
 - Amend season opening date from June 1 to May 29;
 - Add additional closed day on Thursday.
 - b. Proposal #2 (industry proposal):
 - Eliminate two sub-periods and adopt single season with 100% allocation from June 1 – December 31;
 - Add additional closed days on Tuesdays and Thursdays.
 - c. Proposal #3 (industry proposal):
 - a. Add additional closed day on Wednesday;
 - Amend 1st sub-period closure date from July 5 to July 3; amend 2nd sub-period opening date from July 6 to July 4
 - d. Proposal #4 (industry proposal):
 - Amend season opening date from June 1 to May 22;
 - Add additional closed day on Thursday.
 - e. Proposal #5 (industry proposal):
 - Eliminate two sub-periods and adopt single season with 100% allocation from May 22 – December 31;
 - Amend season opening date from June 1 to May 22
 - Add additional closed day on Thursday.
4. **Proposed amendments to menhaden management (section 3.24.2(A)):**
- a. Proposal #1 (Division proposal):
 - Provide for a weekly possession limit of one hundred twenty thousand (120,000) pounds per vessel per week provided that the State's quota has not been exhausted or if the Episodic Event Set Aside Program has been enacted in Rhode Island.
 - Remove trammel nets from Incidental Catch permitted small-scale gear types.
5. **Other non-substantive proposed amendments (Division proposal):**
- a. Recreational Summer Flounder: Correct inadvertent error with location of minimum size for special shore sites: Relocate minimum size from the “Possession Limit” section to the “Minimum Size” section.
 - b. Commercial Summer Flounder: Remove rules regarding the Summer Flounder Aggregate Landing Program in conjunction with relocating these sections to new Aggregate Program regulation (adoption), which will contain all Aggregate Program rules (i.e., Winter I Summer Flounder, Summer/Fall Summer Flounder, and Summer/Fall Black Sea Bass (note this would only occur if new Aggregate Program rule is adopted (Part 23) and the existing Research Pilot Aggregate Program (Part 12) remains expired.

c. Menhaden: Non-substantive clarifications made to language

RI DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Division of Marine Fisheries

Pre-hearing Workshop

January 31, 2023



Purpose of Workshop



- Provide stock status and 2022 fishery performance on selected finfish species
- Provide Division proposals for 2023 management under consideration; provide opportunity for comment and additional proposals to be considered for noticing

Virtual Meeting Participation



1. All participants will be muted throughout the meeting.
2. To make a comment or ask a question you must use the **Raise Hand** feature in the zoom webinar.
3. The meeting facilitator will un-mute one participant at a time to make their comment or ask their question, the participant will then be re-muted.

**Please minimize background noise while unmuted! –
Thank you**

Process and timeline



- **Jan. 31:** Workshop #1
- **Feb. 6:** Workshop #2
- **March 6:** Public Hearing*
- **April 3:** RI Marine Fisheries Council
- **May 1:** Rules effective

* Stay tuned for listserv announcing noticed rule and 30-day comment period



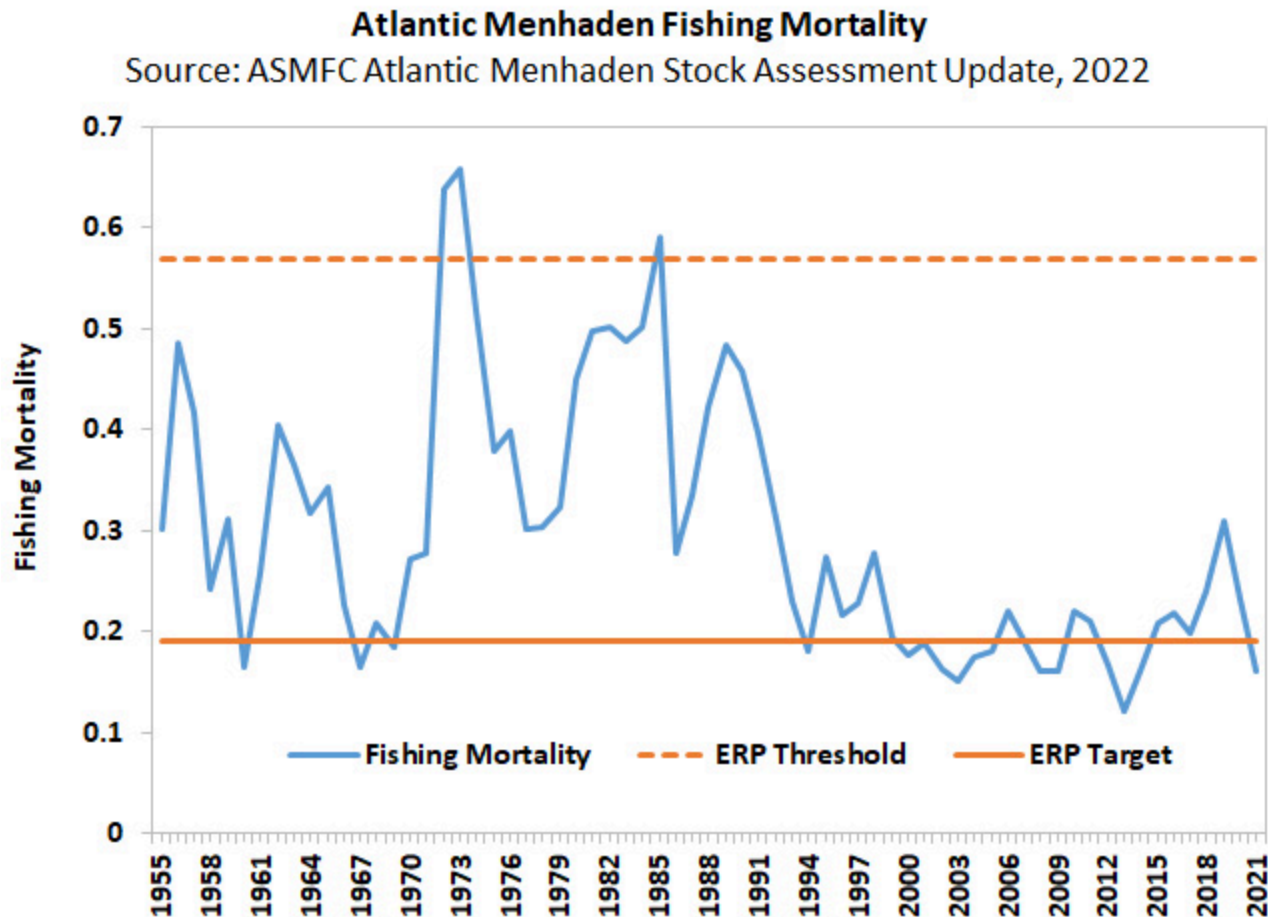
Menhaden

- Summary of Stock Status
- 2022 Rhode Island Commercial Fishery Performance
- 2023 Commercial Management

Menhaden - Stock Status



- F in 2021 estimated to be below both the ERP target and threshold, indicating the stock is not experiencing overfishing.



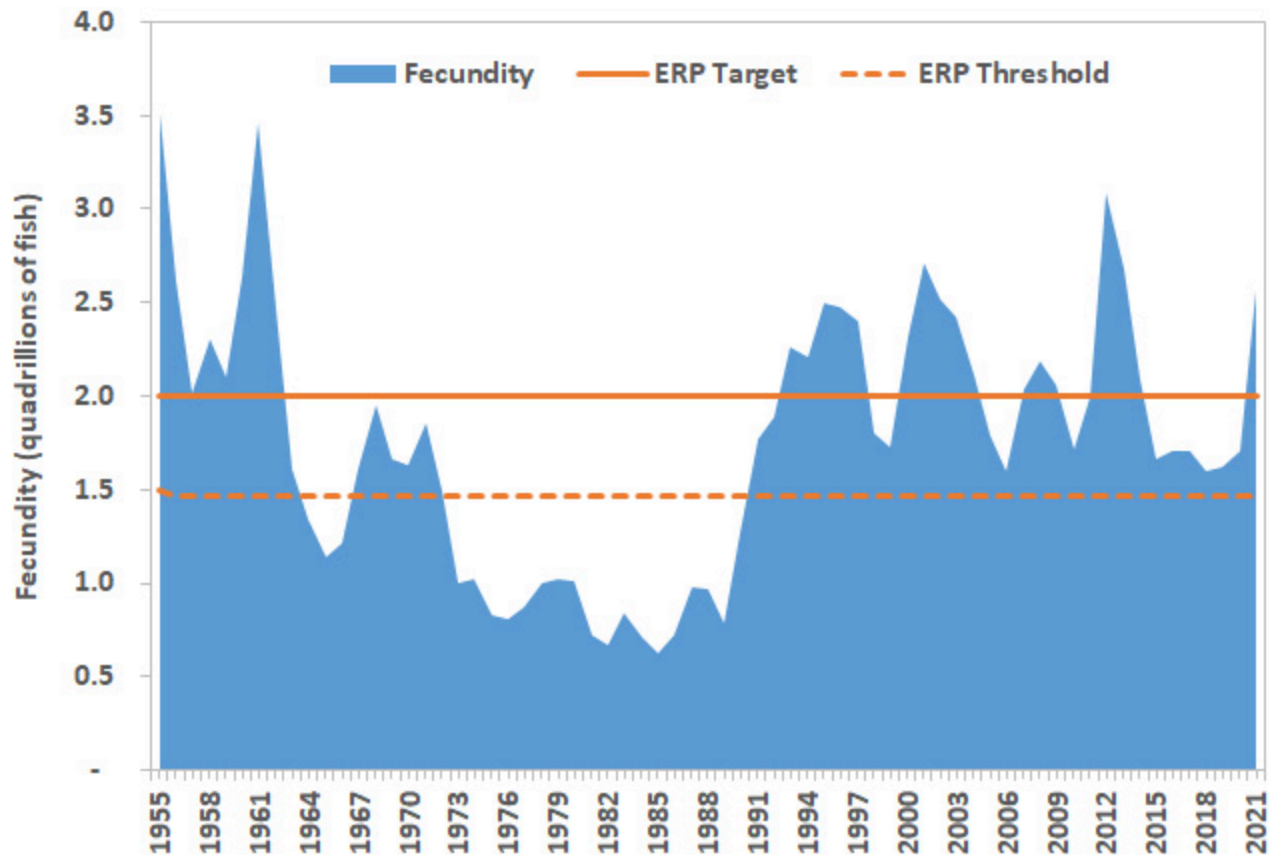
Menhaden - Stock Status cont'd.



- Fecundity in 2021 estimated to be above both the ERP target and threshold, indicating the stock is not overfished.

Atlantic Menhaden Fecundity

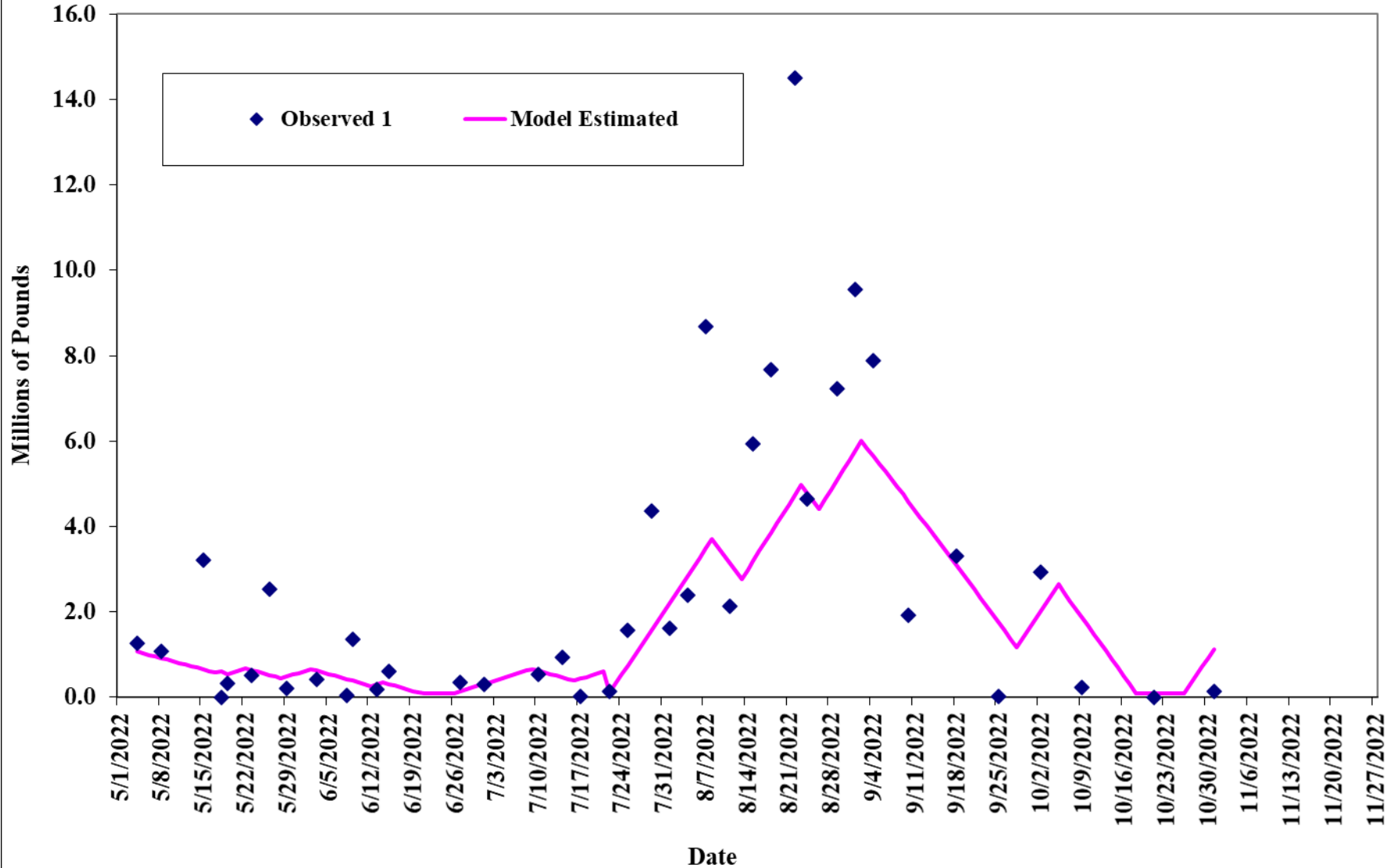
Source: ASMFC Atlantic Menhaden Stock Assessment Overview, 2022



Menhaden - 2022 RI Spotter Pilot



Observed and Model Estimated Spotter Index of Menhaden in Narragansett Bay in 2022



Menhaden - 2022 RI Comm. Landings in Menhaden Management Area



Date	Action	Justification
5/16/22	Open MMA	Biomass Floor
5/17/22	Close MMA	Biomass Threshold
8/9/22	Open MMA	Biomass Floor
10/24/22	Close MMA	Biomass Threshold

Menhaden - 2022 RI Comm. Landings



Initial Quota	Total Landings	Transfers	Quota Remaining
2,196,815 lbs	617,151 lbs	+ 360,000 lbs - 1,820,000 lbs	119,664 lbs

Menhaden - 2023 Proposed Commercial Management



- Total Allowable Catch (TAC) increased to 233,550 mt, ~20% increase from 2021-2022 TAC
- RI allocation increased to 0.81 %
- This results in a RI quota of ~ 4.1 million pounds for 2023

Proposal 1 (Division):

- Clarify that IC/SSF starts when state quota reached
- Remove trammel nets from Incidental Catch small-scale gear types (FMP compliance measure)

Menhaden - 2023 Proposed Commercial Management



Proposal 2 (Industry):

- Weekly possession limit of 120,000 lbs/vessel regardless of MMA status

Proposal 3 (Industry): Not ASMFC Compliant

- Add personal use purse seines to small-scale gear type under the Incidental Catch provision

Proposal 4 (Industry): Not supported by Division

- Eliminate 120,000 lb possession limit
- Remove Saturday and Sunday closure, open 7 days/week
- Eliminate aerial survey and biomass thresholds
- Allow access to menhaden control areas
- Have a season start that ends when annual quota is exhausted



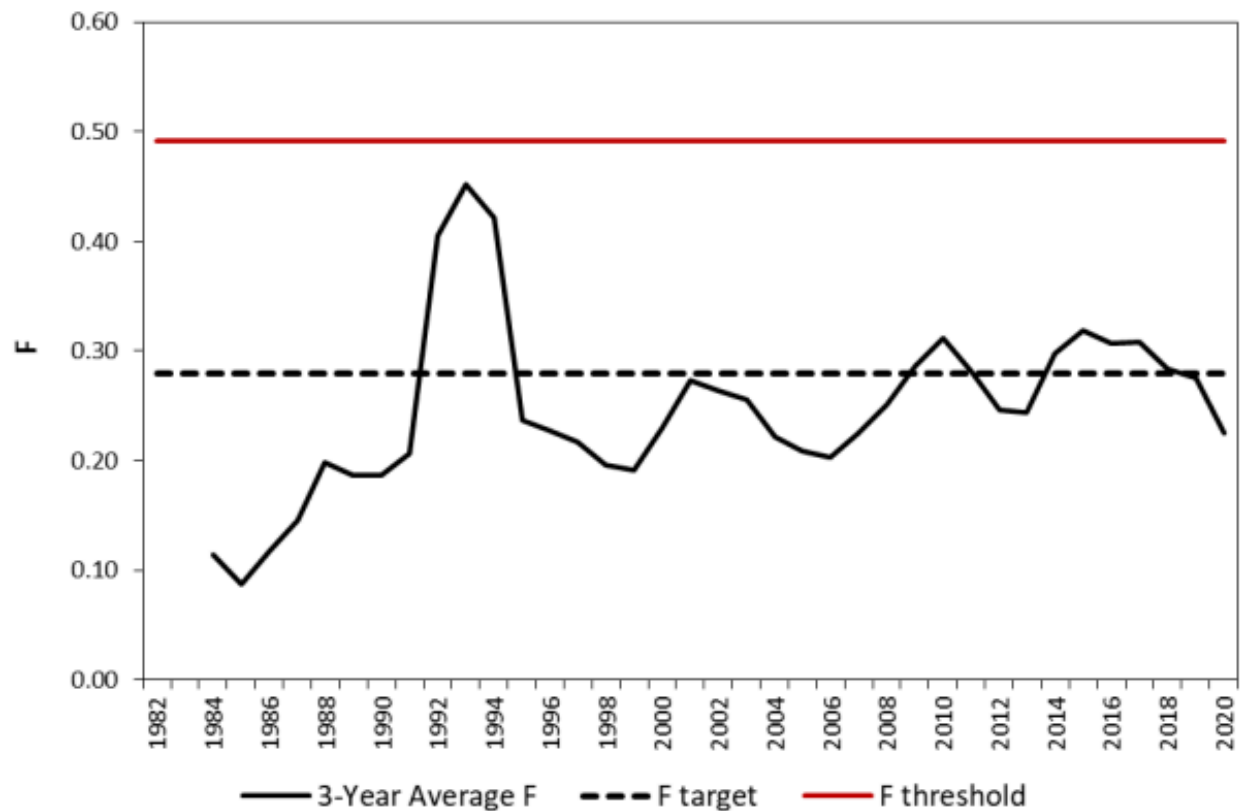
Tautog

- Summary of Stock Status
- 2022 Recreational Fishery Performance
- 2023 Recreational Management
- 2022 Commercial Fishery Performance
- 2023 Commercial Management

Tautog - Stock Status



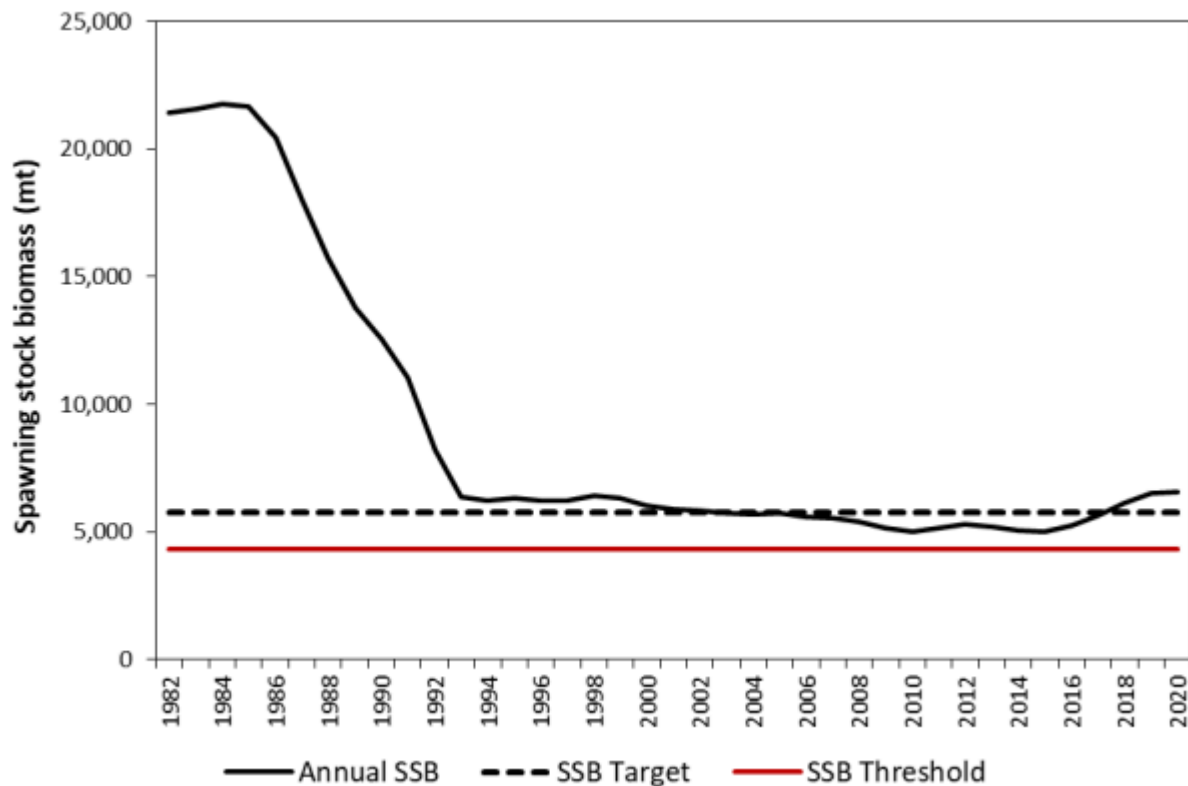
- Update assessment completed and approved by the Board in October 2021.
- Tautog is not overfished, overfishing is not occurring in the MARI region.
- Fishing mortality (F) estimated to be 0.23 in 2020; below the threshold F reference point = 0.49.



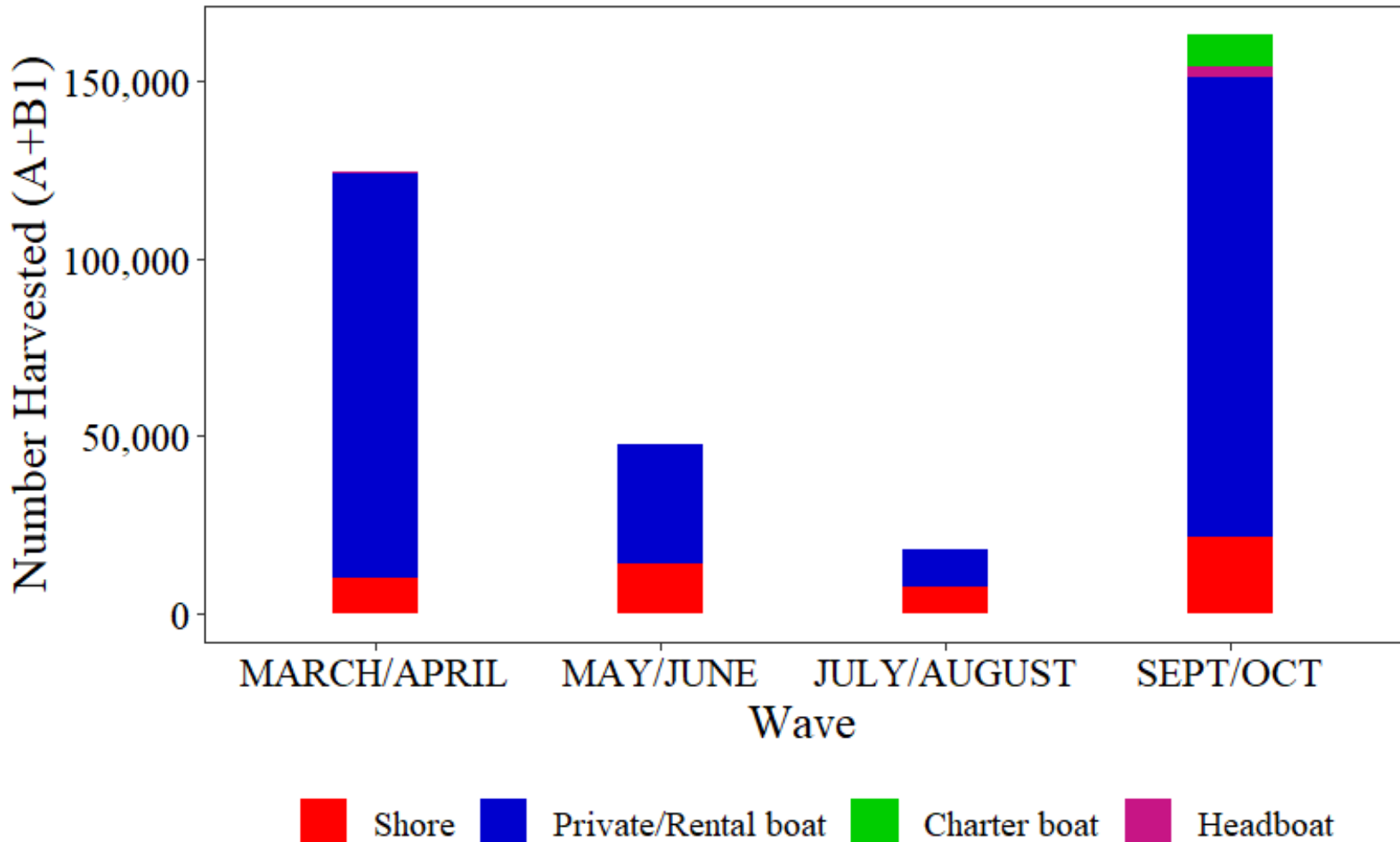
Tautog - Stock Status



- SSB estimated at 14.9 million lbs (target = 10.09 million lbs; threshold = 7.57 million lbs.)
- No change in quota for 2023.

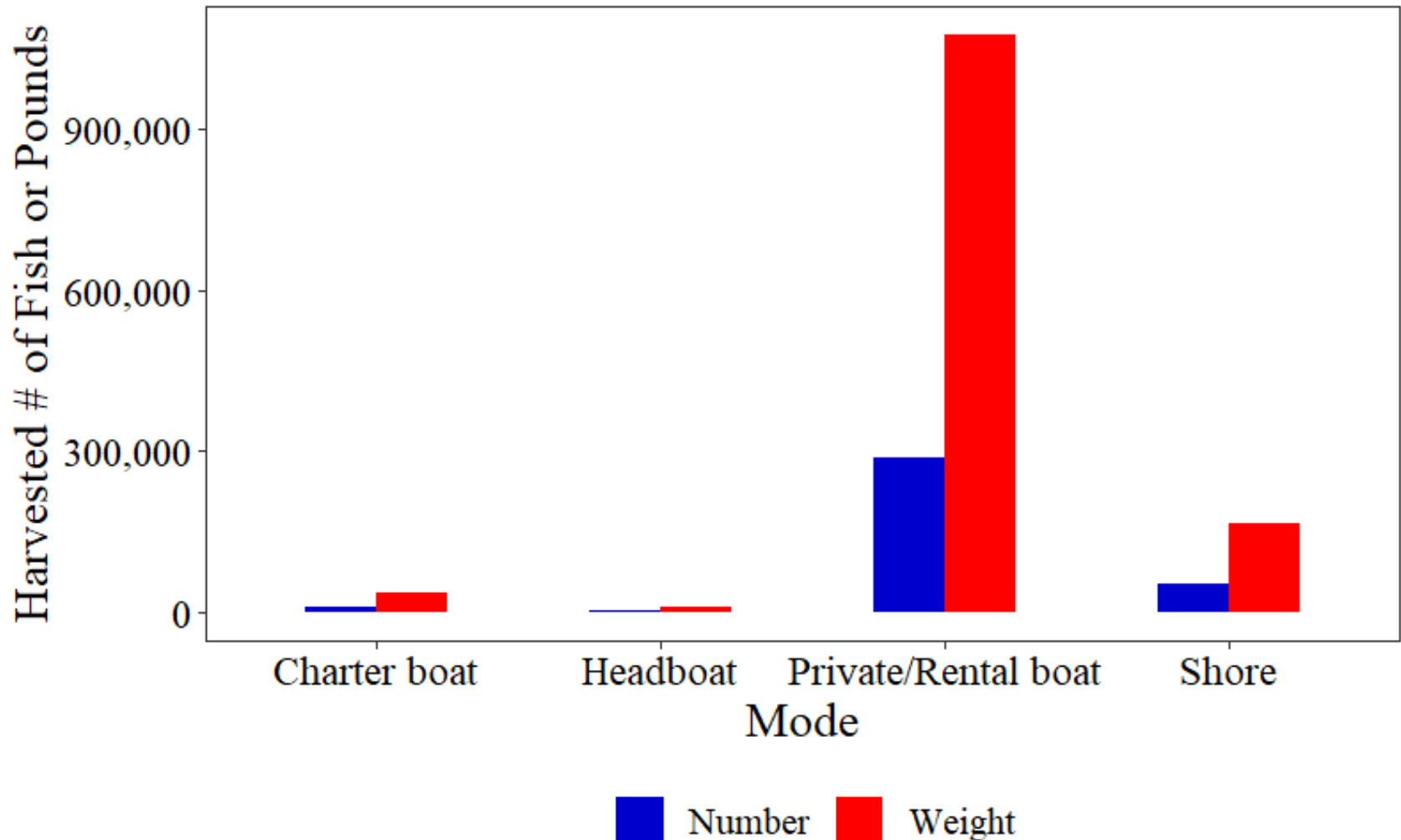


Tautog - 2022 Recreational Fishery Performance



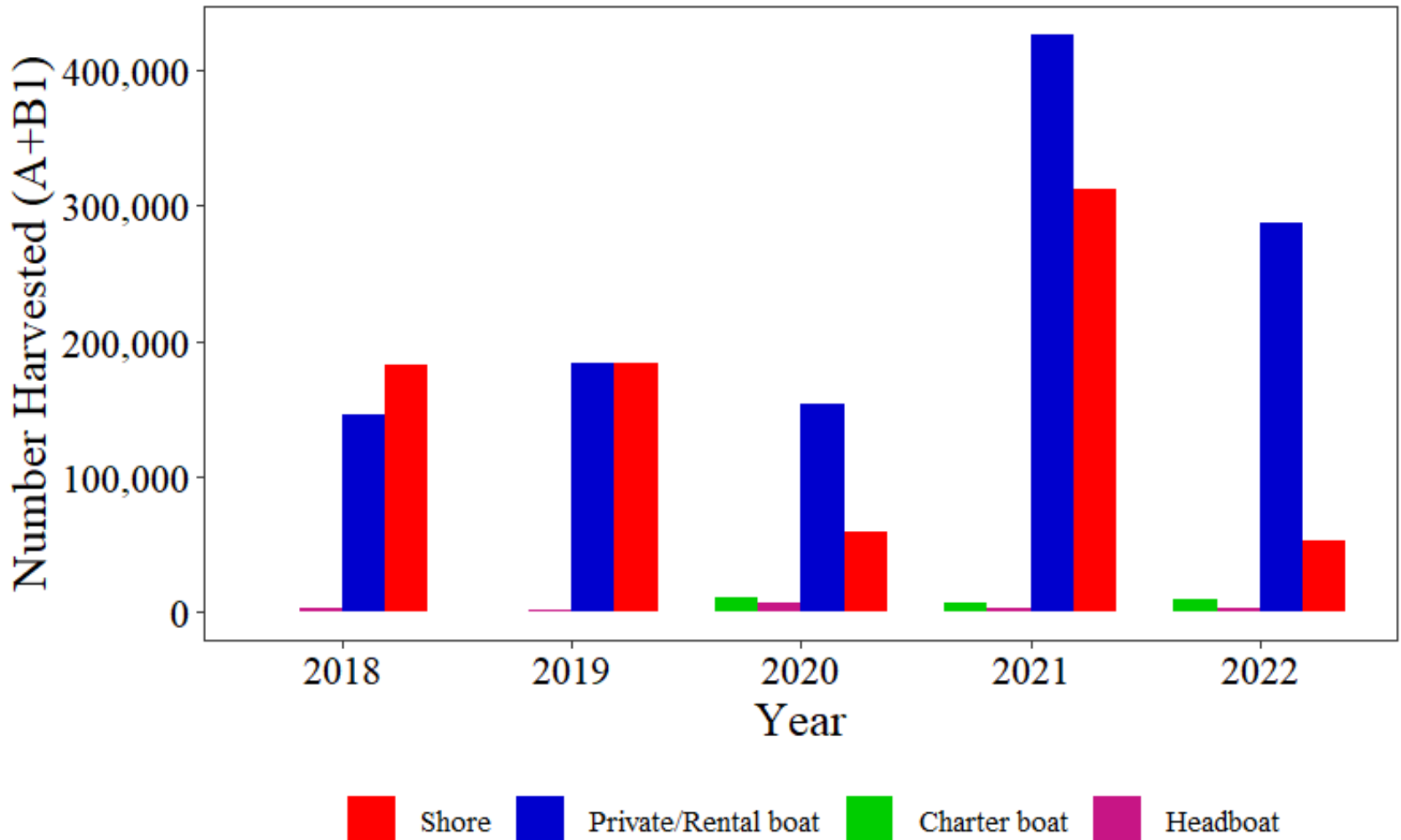
Source: 2022 MRIP, 2022 data preliminary and only through wave 5

Tautog - 2022 Recreational Fishery Performance



Source: 2022 MRIP, 2022 data preliminary and only through wave 5

Tautog - 2022 Recreational Fishery Performance



Source: 2022 MRIP, 2022 data preliminary and only through wave 5

Tautog - 2023 Recreational Management



Current management:

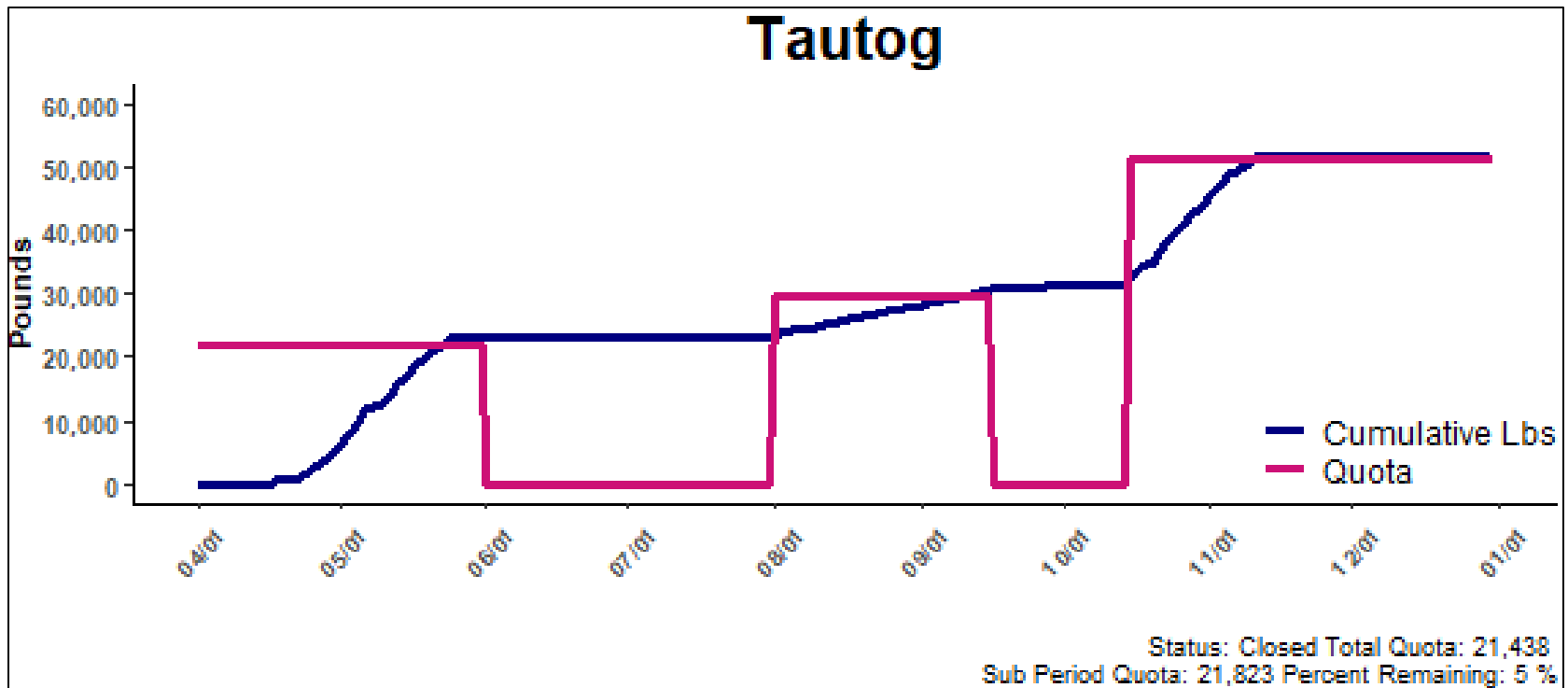
Min. size	Season	Poss. limit*
16" **	Jan. 1 – March 31	Closed
	April 1 – May 31	3 fish/day
	June 1 – July 31	Closed
	Aug. 1 – Oct. 14	3 fish/day
	Oct. 15 – Dec. 31	5 fish/day

*10 fish/vessel maximum

** Only 1 fish may be above 21"

2023 Management: The Division is not proposing changes to recreational Tautog management for 2023.

Tautog - 2022 RI Commercial Fishery Performance



- In 2022 there was a small overage of 571lbs.
- There is no quota change for 2023. 2023 is anticipated to be 51,348lbs – 571lbs (overage from 2022).

Tautog - 2023 Commercial Management



Current management:

Min. size	Season	Allocation	Poss. limit
16"	January 1 – March 30		Closed
	April 1 – May 31	42.5%	10 fish/vsl/day
	June 1 – July 31		Closed
	August 1 – September 15	15%	10 fish/vsl/day
	September 16 – Oct. 14		Closed
	Oct. 15 – Dec. 31	42.5%	10 fish/vsl/day

2023 Management: The Division is not proposing changes to commercial Tautog management for 2023.

Tautog - 2023 Commercial Management



Proposal 1 (Industry):

Min. size	Season	Allocation	Poss. limit
16" <u>16" – 21"</u>	January 1 – March 30		Closed
	April 1 – May 31	42.5%	10 fish/vsl/day
	June 1 – July 31		Closed
	August 1 – September 15	15%	10 fish/vsl/day
	September 16 – Oct. 14		Closed
	Oct. 15 – Dec. 31	42.5%	10 fish/vsl/day

- “Compatible regulations between adjacent states are desirable to prevent the shift of fishing effort to areas with more liberal regulations, or to an area with an open season.”
- Any management change would need interest from MA with a working group to be formed to discuss possible shifts in effort.



Bluefish

- Summary of stock status
- 2022 recreational fishery performance
- 2023 recreational management
- 2022 commercial fishery performance
- 2023 commercial management

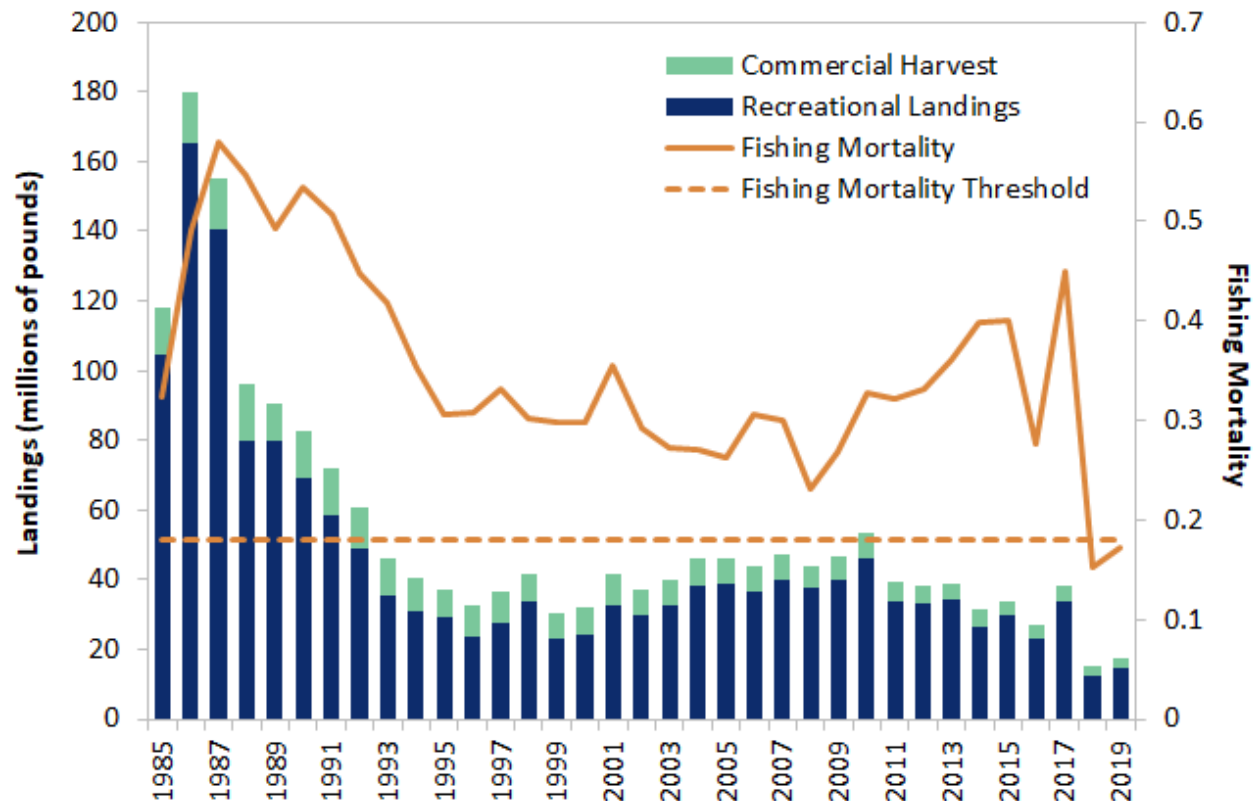
Bluefish - Stock Status



- 2021 update assessment indicates the stock is overfished, however overfishing is not occurring in 2019 relative to the updated BRPs.
- F was estimated to be 0.172 in 2019; below the threshold F reference point = 0.181.
- Although the stock is not experiencing overfishing in 2019, overfishing has occurred in all years prior to 2018.

Bluefish Commercial and Recreational Landings

Source: Northeast Fisheries Science Center, 2021



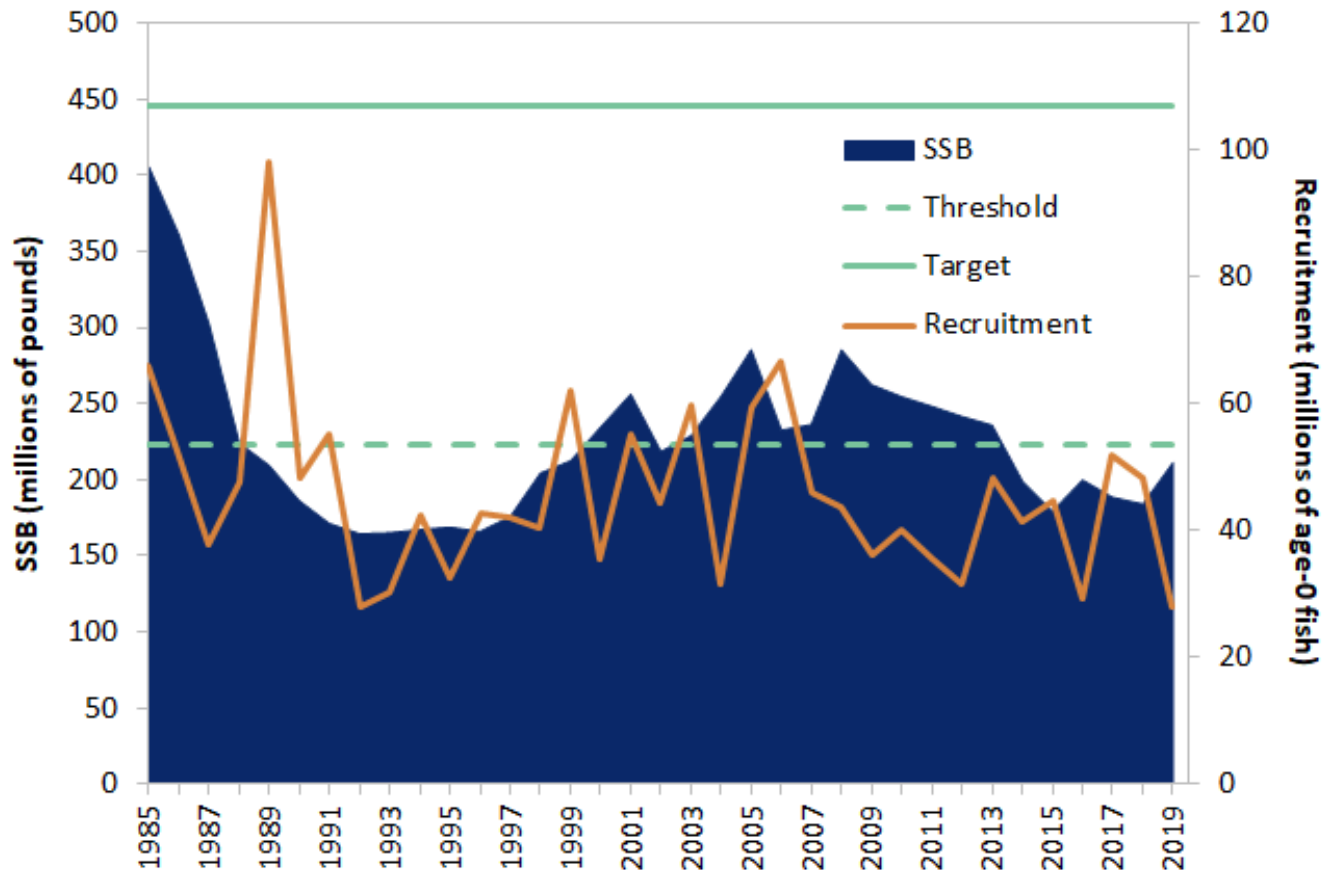
Bluefish - Stock Status



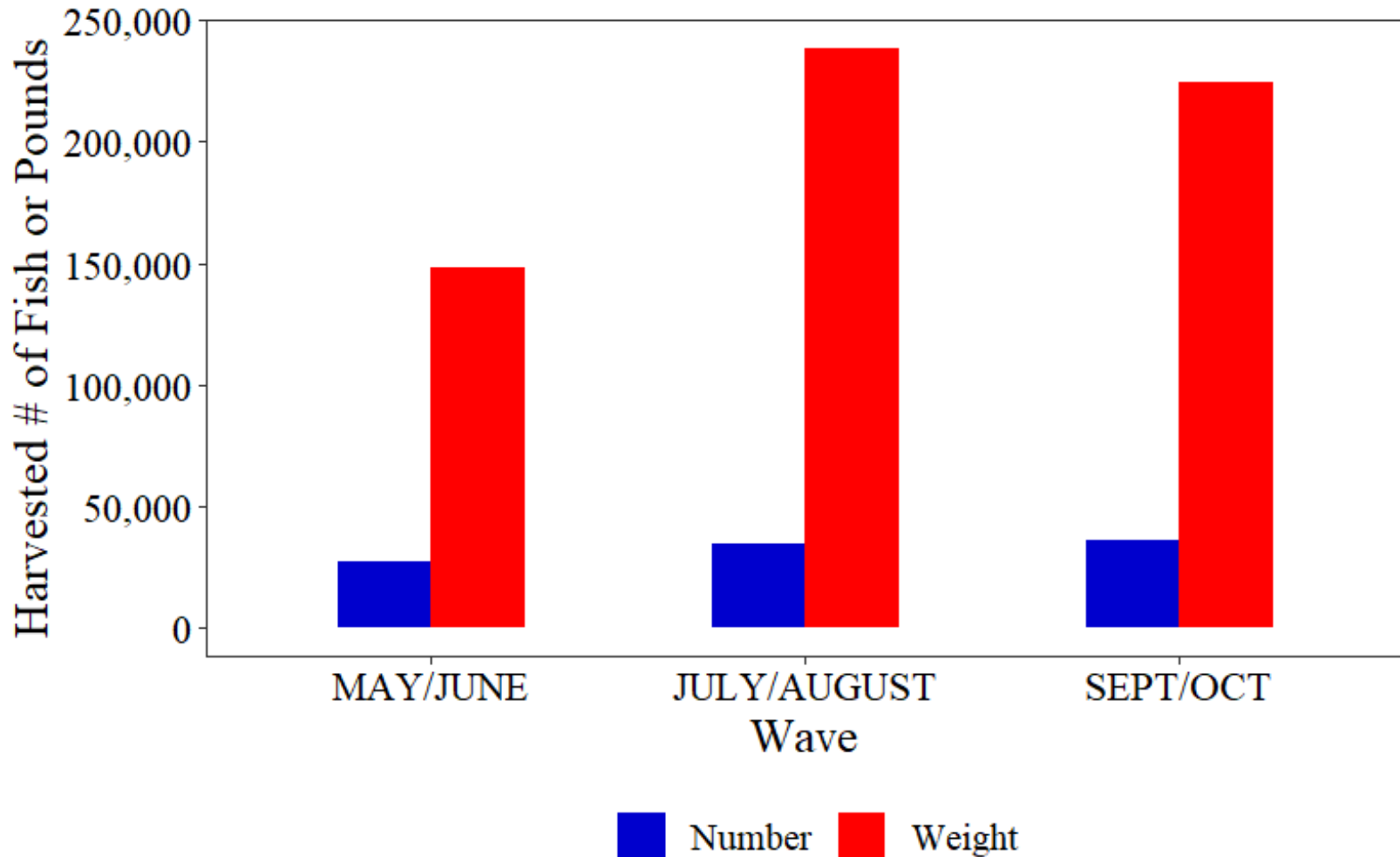
- SSB was estimated to be 211 m lbs in 2019, below the SSB threshold of 222 m lbs.

Bluefish Spawning Stock Biomass (SSB) and Recruitment

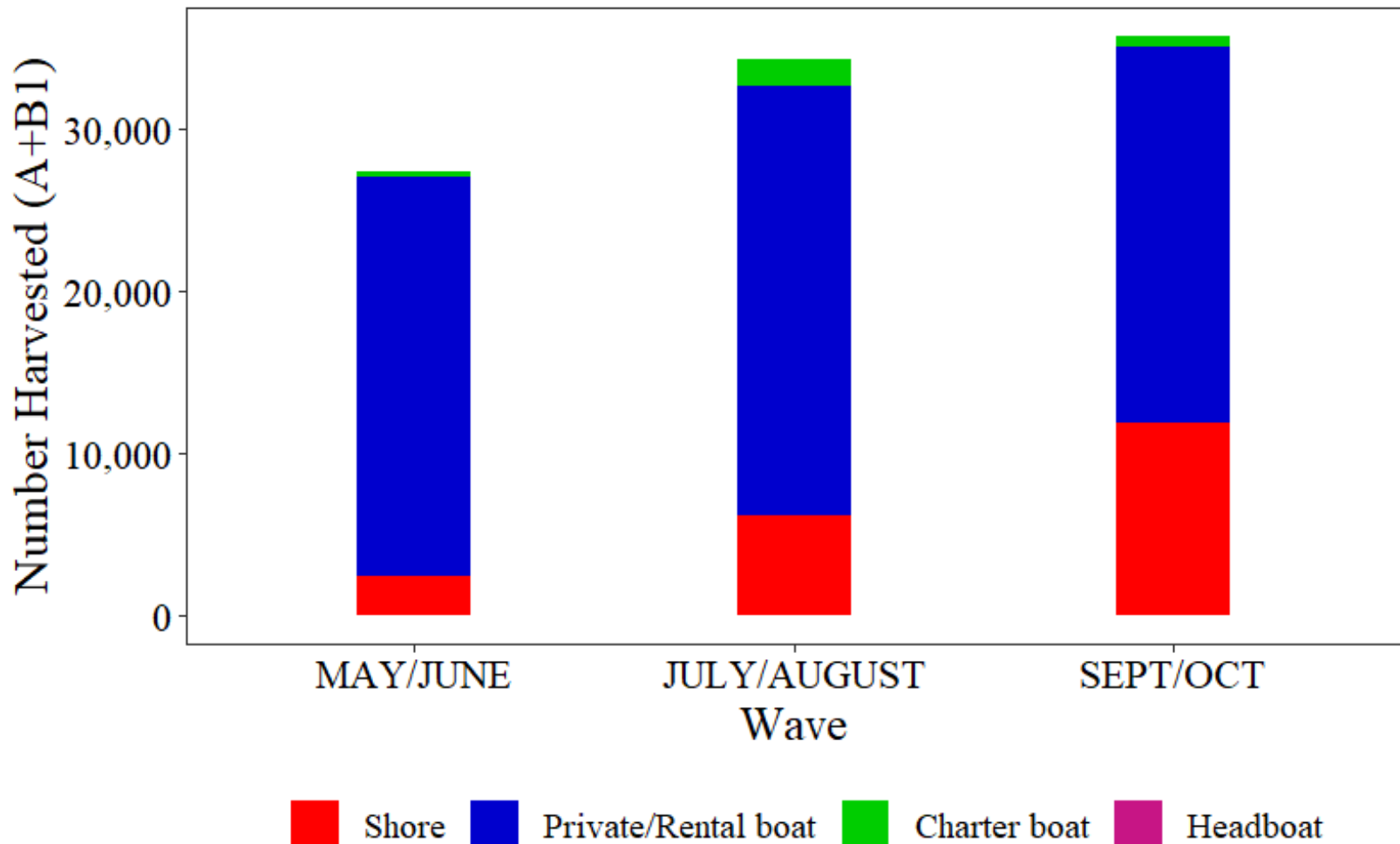
Source: Northeast Fisheries Science Center, 2021



Bluefish - 2022 RI Recreational Fishery Performance



Bluefish - 2022 RI Recreational Fishery Performance



Source: 2022 MRIP, 2022 data preliminary and only through wave 5

Bluefish - 2023 Recreational Management



- Recreational Harvest Limit (RHL) of 14.11 million lbs set for 2023, a 1.6% increase from the 2022 RHL.

Current management:

Mode	Min. size	Season	Poss. limit
Private/Shore	N/A	Jan. 1 – Dec. 31	3 fish/day
For-hire			5 fish/day

2023 Management: The Division is not proposing changes to recreational Bluefish management for 2023.

Bluefish - 2022 Commercial Fishery Performance



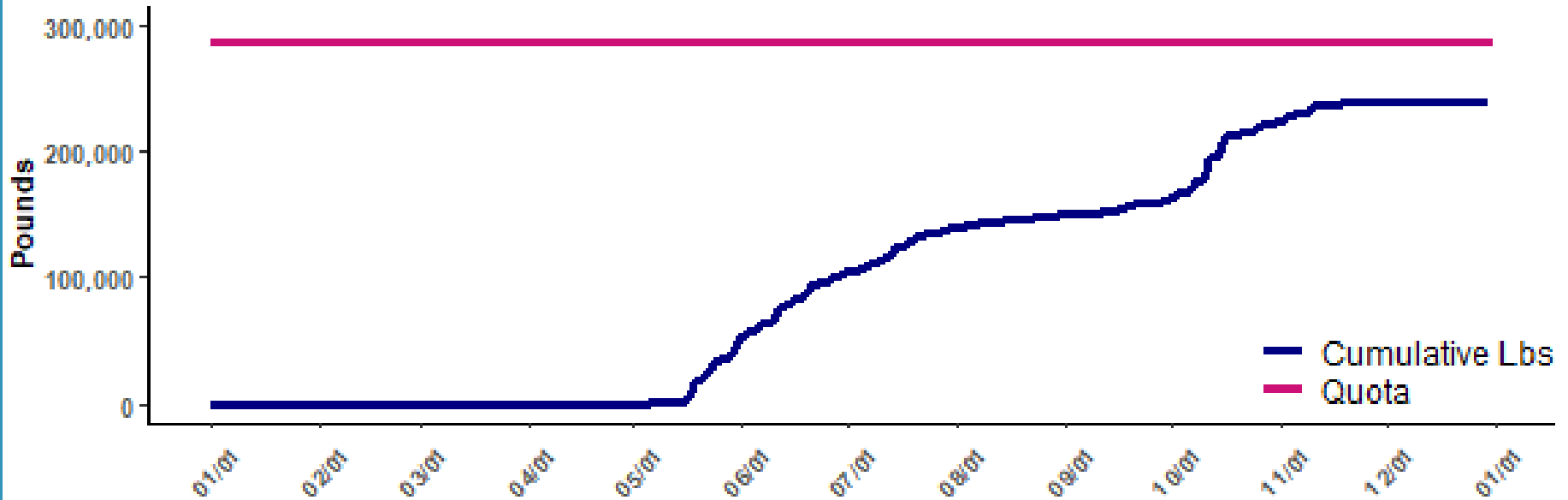
Sub-period	2022 Initial Projected Poundage	2022 Pounds Landed	Possession Limit
Jan. 1 – April 30	7,649	353	1,000 lbs/2 wks (1/1)
May 1 – Nov. 15	232,010	237,213	6,000 lbs/wk (5/1)
Nov. 16 – Dec. 31	15,297	2,938	6,000 lbs/wk (11/16)
Total	254,956	240,504	

- 127,500 pounds transferred from other states for final allocation of **382,456** lbs.



Bluefish - 2022 Commercial Fishery Performance cont'd.

Bluefish



Bluefish - Proposed 2023 Commercial Management Options



- **2023 Commercial Quota:** 326,165 lbs. (~ 28% increase).
 - The Division will continue to pursue commercial quota transfers in 2023 to avoid an early closure.

2023 Management: The Division is not proposing changes to commercial Bluefish management for 2023.



Striped Bass

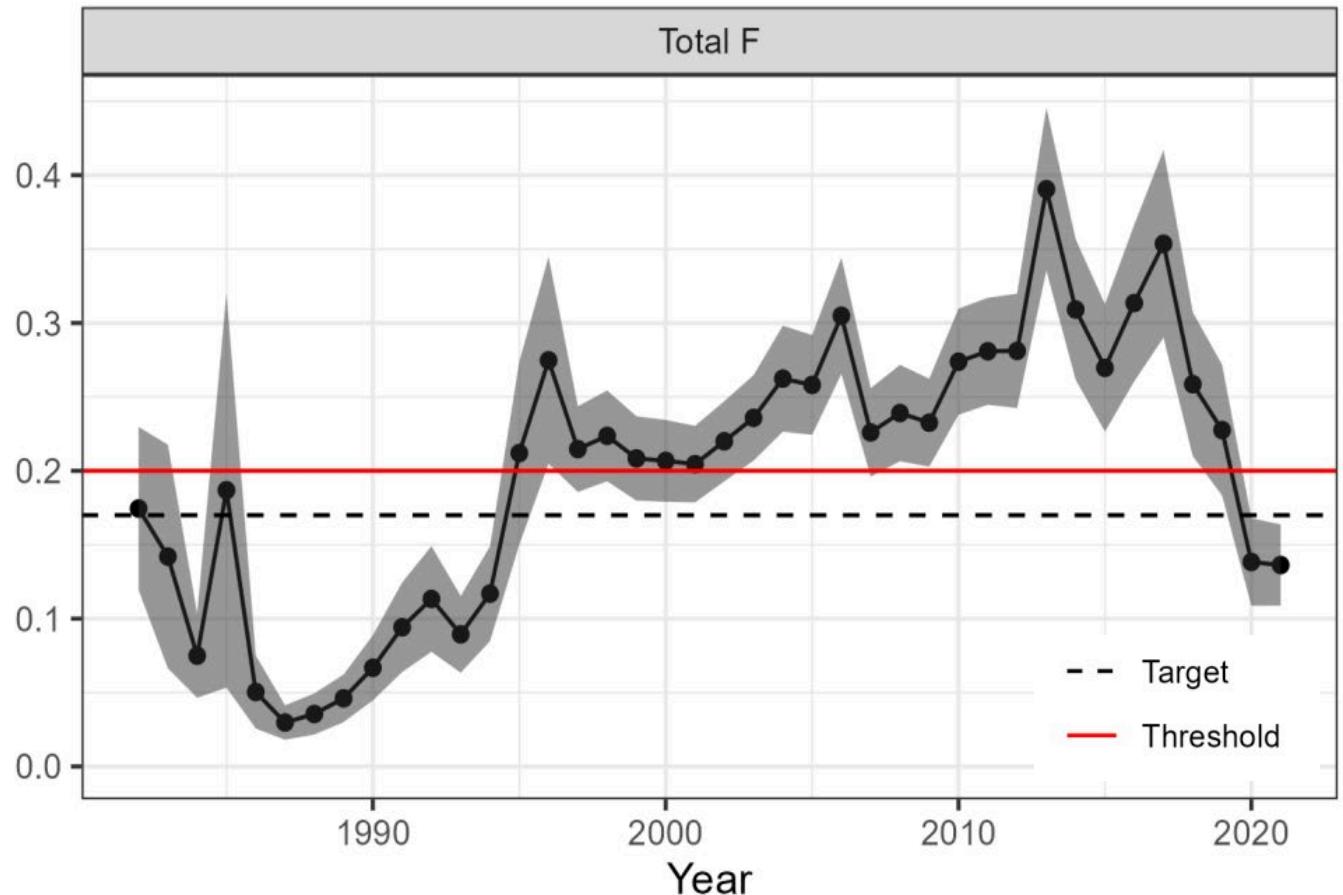
- Summary of stock status
- 2022 recreational fishery performance
- 2023 recreational management
- 2022 commercial fishery performance
- 2023 commercial management

Striped Bass - Stock Status



- 2022 Stock Assessment update indicates the striped bass stock is overfished and overfishing is not occurring relative to BRPs.

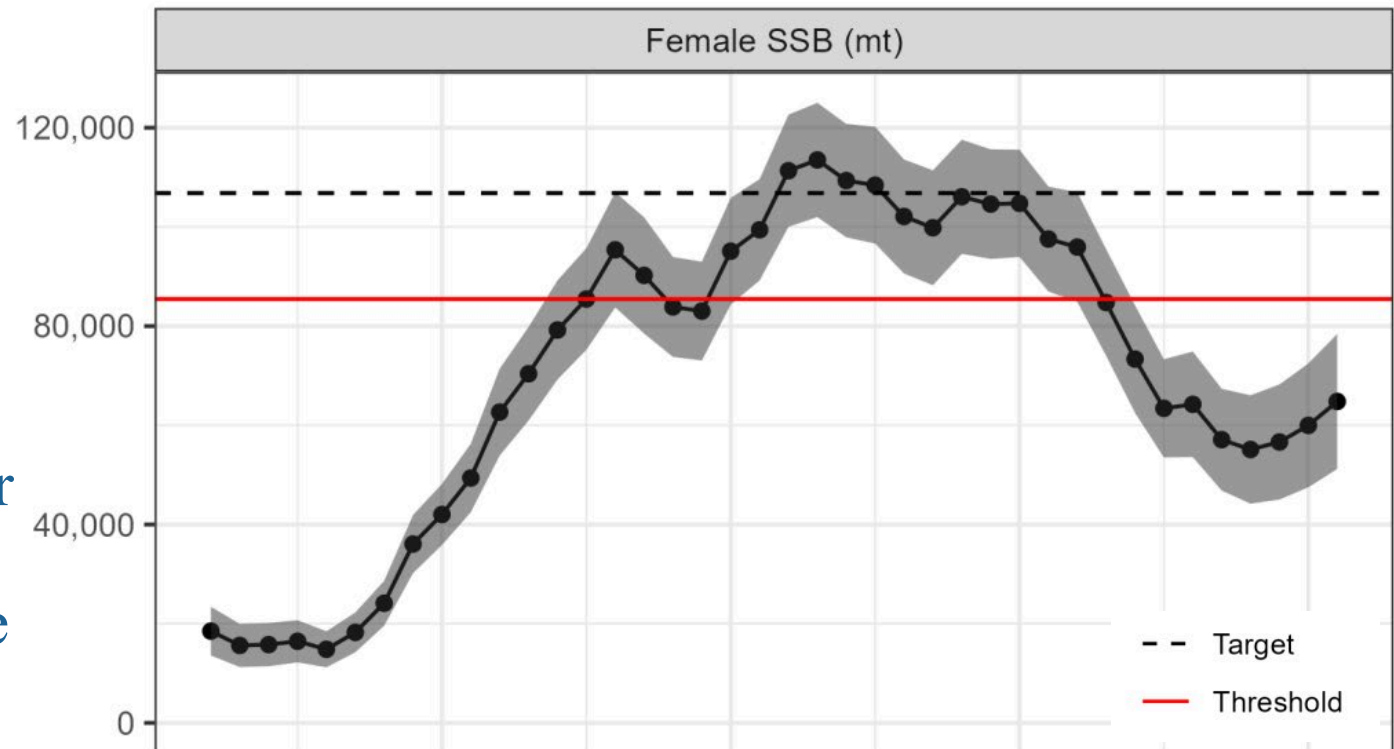
- Fishing mortality (F) was estimated to be 0.14 in 2021; below both the F threshold = 0.20 and the F target = 0.17.





Striped Bass – Stock Status

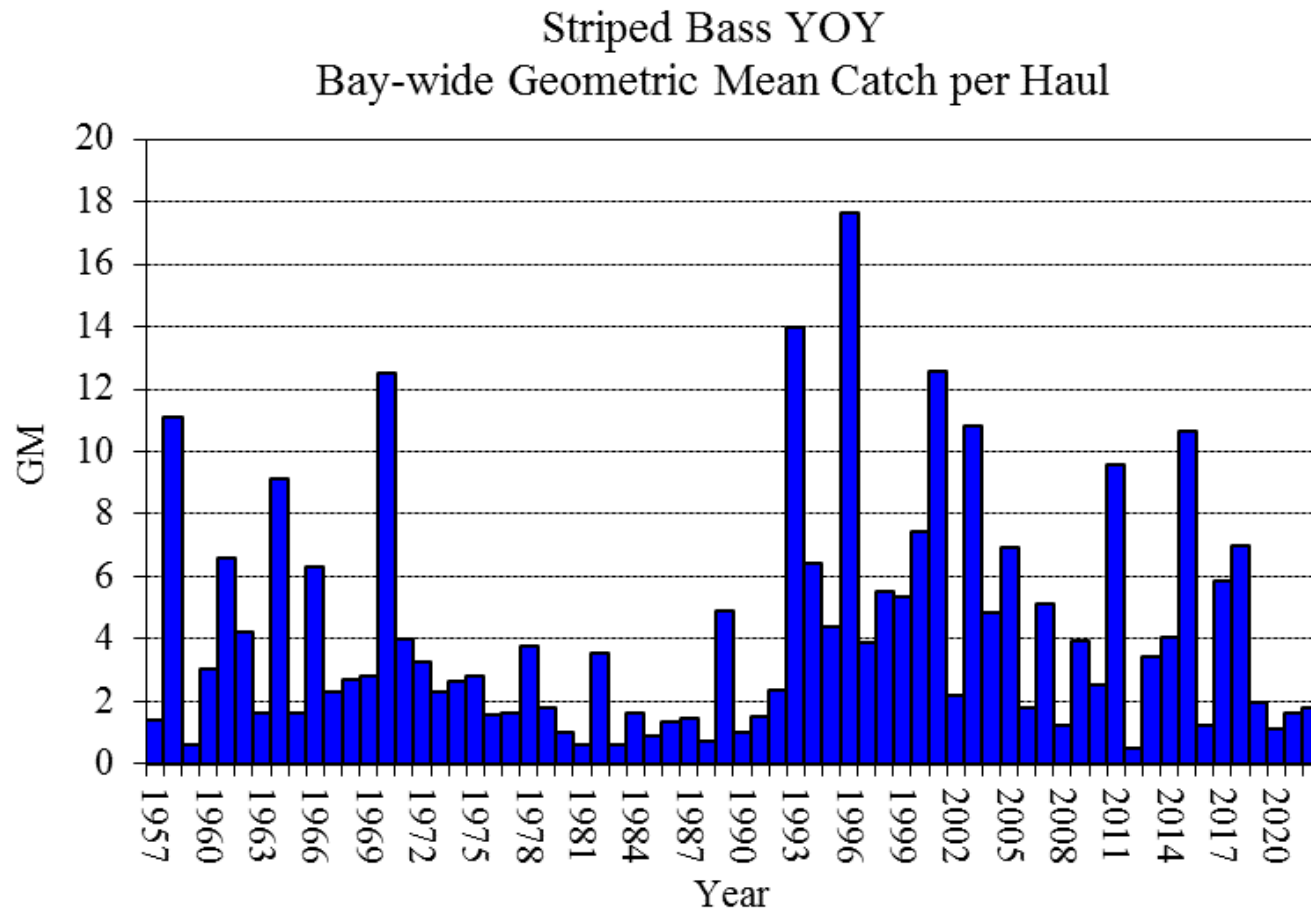
- SSB was estimated to be 143 m lbs in 2021, below both the threshold and target (188 m lbs and 235 m lbs respectively).
- Strong recruitment has been observed in 2012, 2015, and 2016.
- Projections indicate under current F, a 78.6% chance the stock will be rebuilt by 2029.



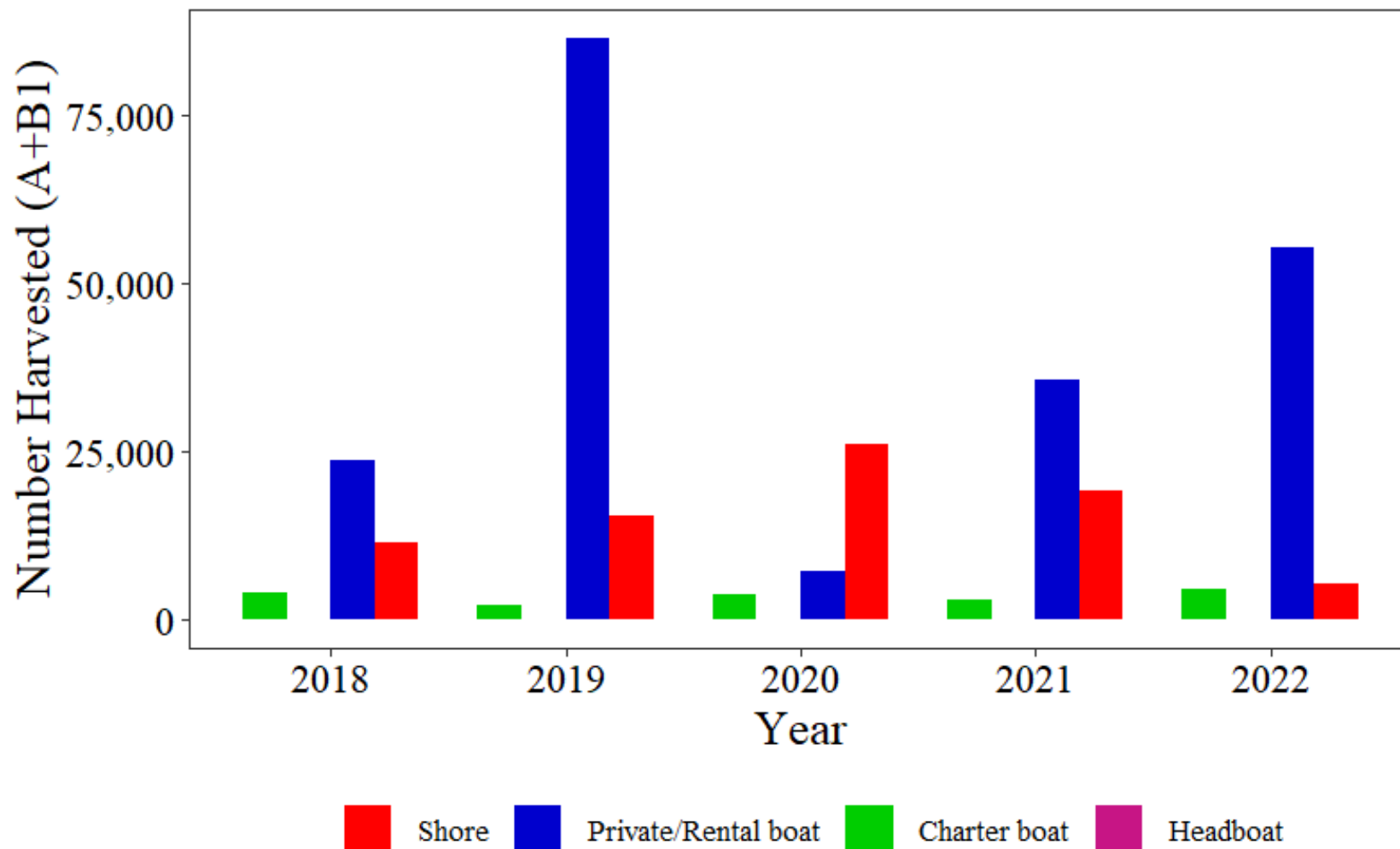
Striped Bass – Stock Status



- In 2022 the MD YOY survey indicated a slightly higher abundance relative to 2021.

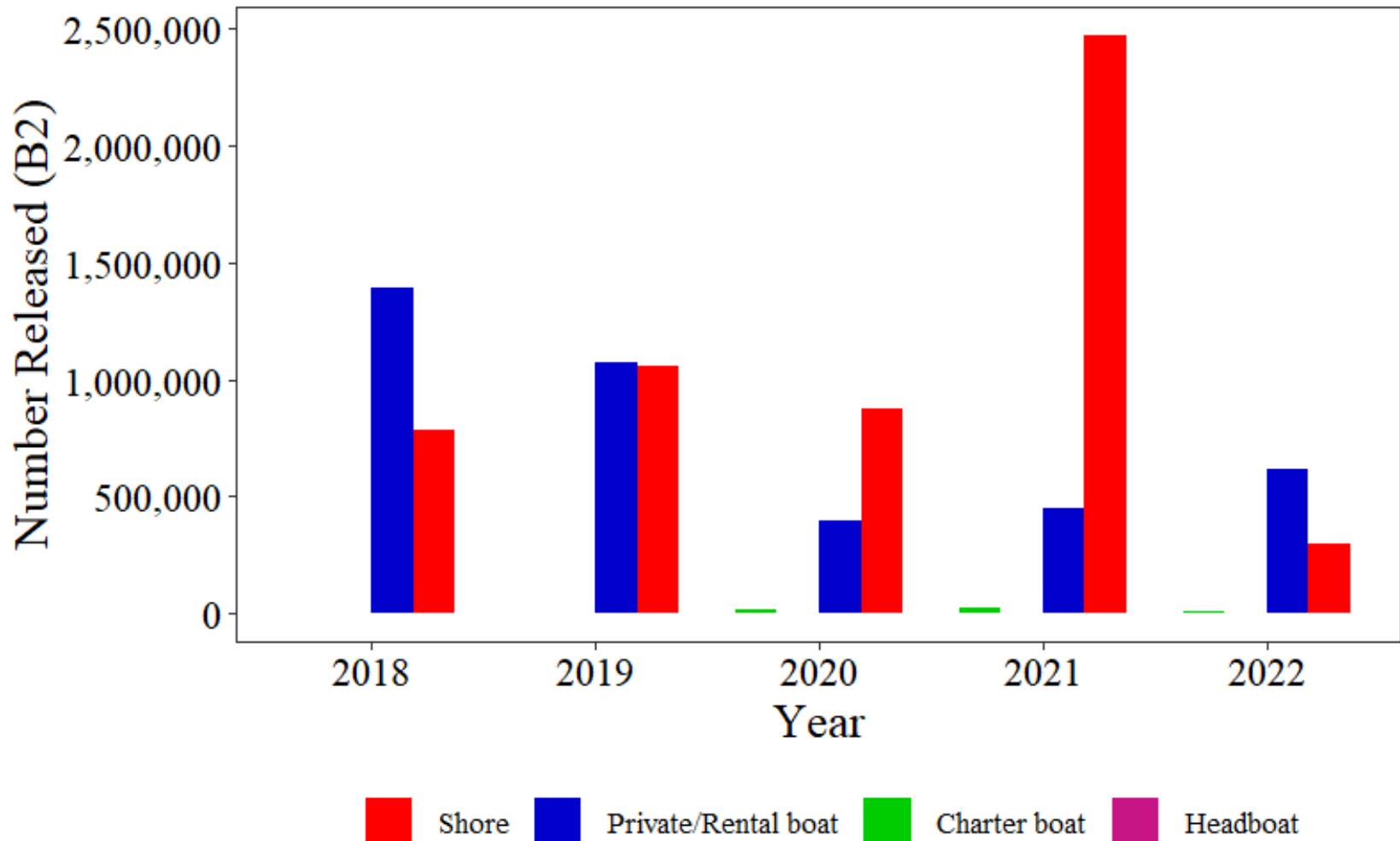


Striped Bass – 2022 RI Recreational Fishery Performance



Source: 2022 MRIP, 2022 data preliminary and only through wave 5

Striped Bass – 2022 RI Recreational Fishery Performance



Source: 2022 MRIP, 2022 data preliminary and only through wave 5

ASMFC Striped Bass Management



- Amendment 7 (approved in May 2022)
 - Management triggers
 - Updated recruitment trigger more sensitive to low recruitment
 - 2-year timeframe to establish rebuilding plan when SSB trigger tripped
 - Recreational discard mortality
 - Recreational gaff prohibition
 - Conservation equivalency (CE)
 - No CE when overfished
 - Restrictions on use of MRIP data
 - Uncertainty buffers
- Draft Addendum I to Amendment 7
 - Commercial quota transfers
 - Final action expected today!

Striped Bass – 2023 Recreational Management



Current management:

Min. size	Max. size	Season	Poss. limit
28"	< 35"	Jan. 1 – Dec. 31	1 fish/person/day

Additional Provisions:

- Remove right pectoral fin at time of harvest for striped bass ≥ 34 "
- Circle hooks required when fishing recreationally with bait
- Striped bass caught on any unapproved method of take must be returned to the water immediately without unnecessary injury
- Gaff prohibition when fishing recreationally (1/1/23)

2023 Management: The Division is not proposing changes to recreational Striped Bass management for 2023.

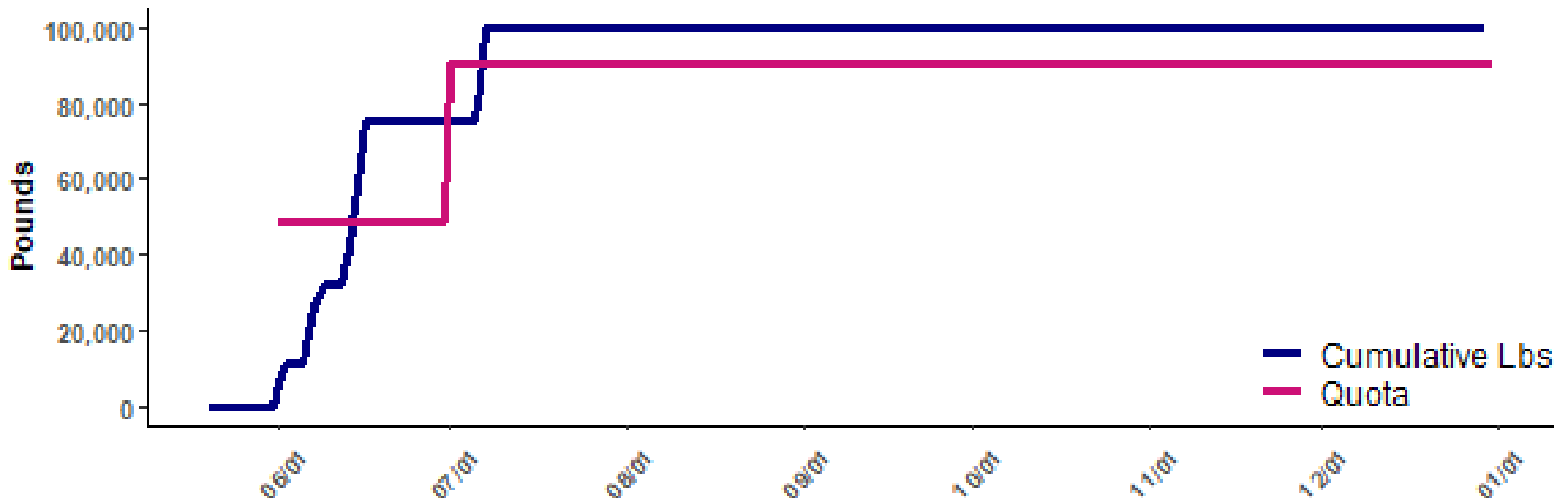
Striped Bass - 2022 Commercial GC Fishery Performance



- **2022 Quota:** 90,822 lbs

Season	Fishing Days Open	Initial Allocation	Adjusted Allocation	Landings	Underage/Overage
6/1 – 6/19	10	48,825 lbs	N/A	75,726 lbs	-26,901 lbs
7/6 – 7/10	2	41,997 lbs	15,096 lbs	24,247 lbs	-9,151 lbs

Striped Bass General Category



Striped Bass - 2022 Commercial GC Fishery Performance



EFFORT DATA	2021	2022
License Count	232	253
New Licenses		30
Total Lbs New Licenses		1305
Max License/day	115	228
Avg Licenses/day	35	130
Max Lbs/day	6,458	15,036

DEALER DATA	# of Dealers
Used STB tags	18
Reports 100% on time	10
≥ 50% total lbs reported late	7
Total lbs late	44,022

- Reports due every Monday and Thursday, no more than 5 days from date of purchase

Striped Bass - 2022 Commercial FFT Fishery Performance



- **2022 Quota:** 58,067 lbs

Season	Days Open	Initial Allocation	Landings
4/1 – 6/2	63	58,067 lbs	C

- Possession limit reduced from UNLIMITED to 500 lbs/licensee/day on 5/21/22
- Quota fully harvested with overage

Striped Bass – 2023 Commercial GC Management



- **RI 2023 Commercial GC Quota:** 90,822 – 9,151 overage = 81,671 lbs

Current management:

Min. size	Season	Allocation	Poss. limit	Closed Days
34"	6/1 – 7/5	50%	5 fish/person/day	Fri, Sat & Sun
	7/6 – 12/31	50%	5 fish/person/day	Fri, Sat & Sun

Proposal 1 (Division):

Min. size	Season	Allocation	Poss. limit	Closed Days
34"	6/1 – 7/5	50%	5 fish/person/day	<u>Thurs.</u> , Fri, Sat & Sun
	7/6 – 12/31	50%	5 fish/person/day	<u>Thurs.</u> , Fri, Sat & Sun

- **Daily Reporting Requirement to SAFIS for all Dealers who receive comm. Striped Bass tags**

Striped Bass – 2023 Commercial GC Management



Proposal 2 (Industry):

Min. size	Season	Allocation	Poss. limit	Closed Days
34"	6/1 – 7/5 <u>12/31</u>	50 <u>100%</u>	5 fish/person/day	<u>Tues, Thurs,</u> Fri, Sat & Sun
	7/6 – 12/31	50%	5 fish/person/day	Fri, Sat & Sun

Proposal 3 (Industry):

Min. size	Season	Allocation	Poss. limit	Closed Days
34"	6/1 – 7/5 <u>7/3</u>	50%	5 fish/person/day	<u>Wed,</u> Fri, Sat & Sun
	7/6 <u>7/4</u> – 12/31	50%	5 fish/person/day	<u>Wed,</u> Fri, Sat & Sun

Striped Bass – 2023 Commercial FFT Management



- **RI 2023 Commercial Quota:** 58,067 lbs - 2022 overage

Current management:

Min. size	Season	Poss. limit
26"	April 1 - Dec. 31	Unlimited; @ 70% trigger, reduces to 500 lbs/licensee/day

2023 Management: The Division is not proposing changes to commercial FFT Striped Bass management for 2023.

Striped Bass – 2023 Commercial Tagging Update



2023 Tagging program changes:

- Each dealer who received tags in 2022 will receive a letter detailing:
 - 2022 tag performance
 - 2022 SAFIS reporting
 - New 2023 daily tag limits
- Dealers will no longer receive all tags prior to start of season and will be issued small allotments, e.g., 200 tags at a time
- Dealers will only be issued additional tags when they have submitted reports on previously issued tags and are up to date on SAFIS reports



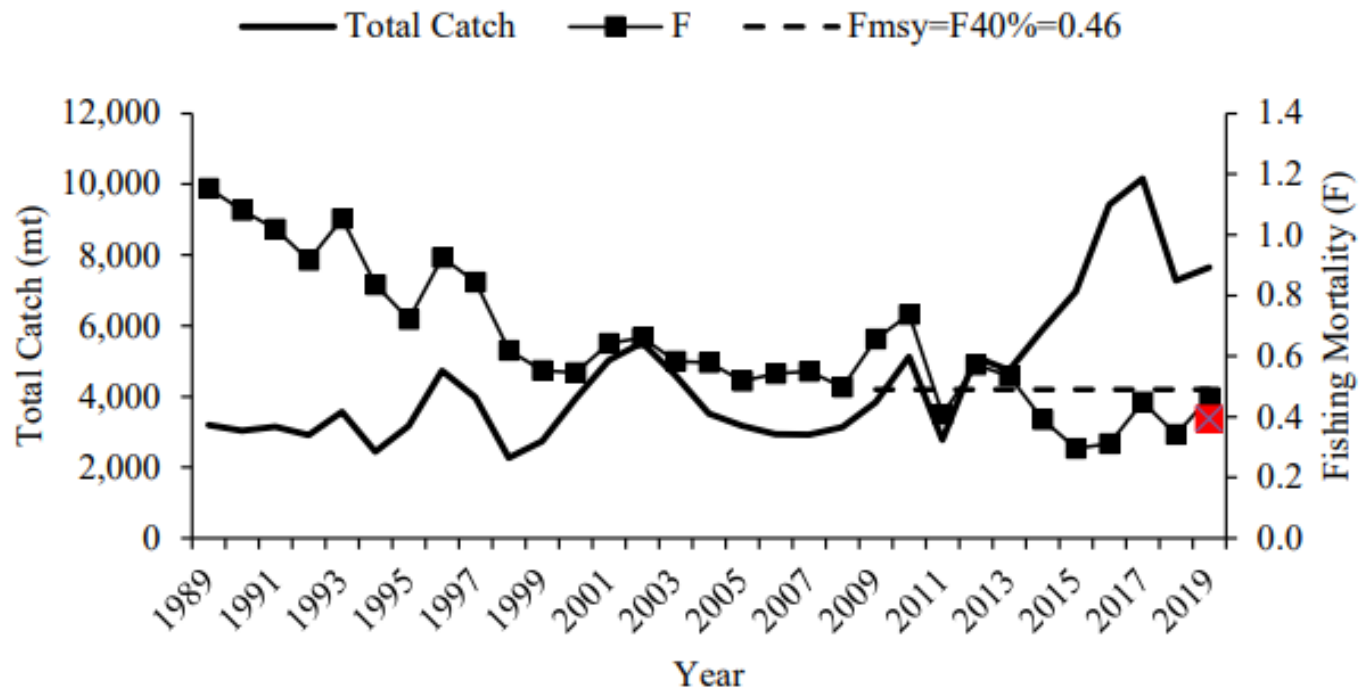
Black Sea Bass

- Summary of Stock Status
- 2022 RI Recreational Fishery Performance
- 2023 Recreational Management

Black Sea Bass - Stock Status



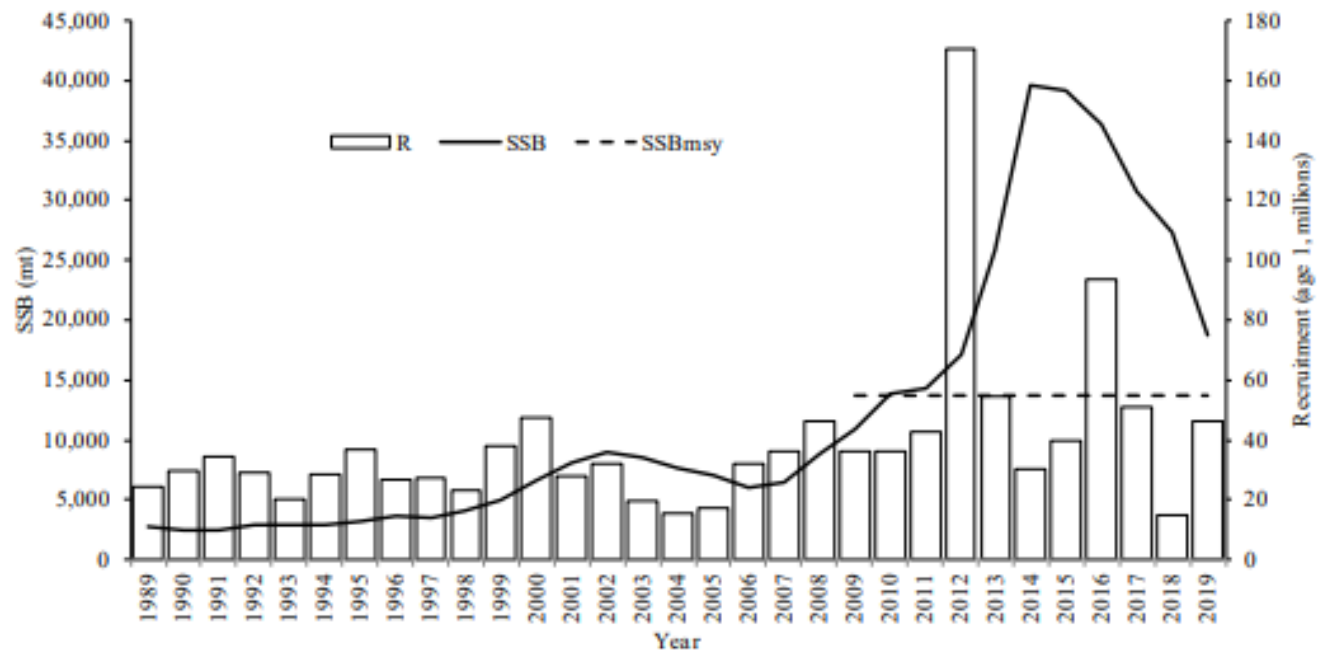
- Management Track Stock Assessment in 2021; biological reference points (BRPs) updated.
- Black sea bass is not overfished; overfishing is not occurring relative to BRPs.
- Fishing mortality was estimated to be 0.39 in 2019, below the threshold F reference point= 0.46.



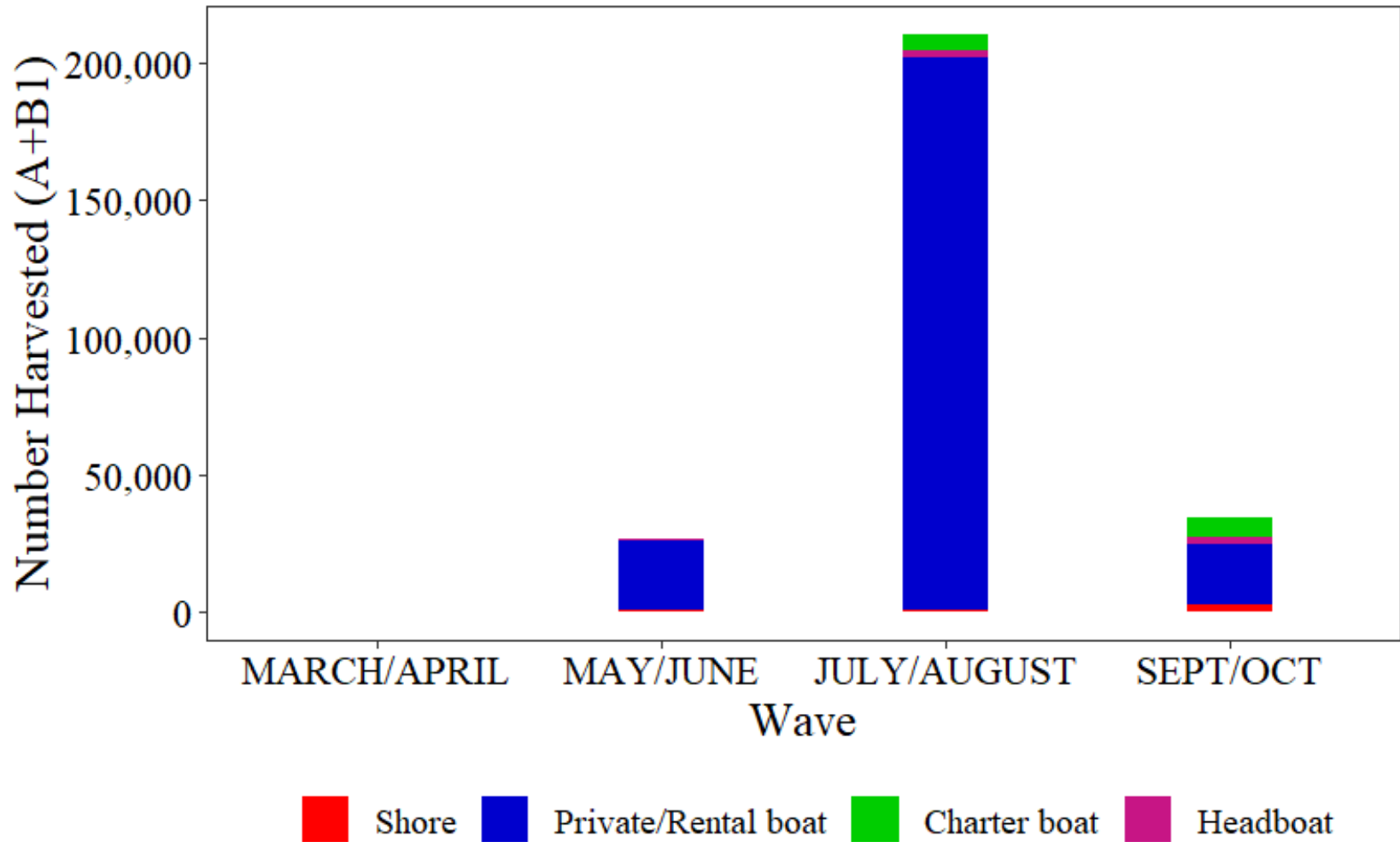
Black Sea Bass - Stock Status cont'd.



- Spawning Stock Biomass (SSB) estimated to be 65.6 m lbs (29,769 mt) in 2019, 2.1X the SSB reference point = 31.8 m lbs (14,441 mt).
- 2018 year class estimated ~79.4 million fish, above average.
- Recreational harvest to take 10% reduction



Black Sea Bass – 2022 RI Recreational Fishery Performance



Source: 2022 MRIP; 2022 data preliminary and only through wave 5

Black Sea Bass - 2023 Recreational Management



- MAFMC requiring 10% coastwide reduction in 2023

Current management:

Mode	Min. size	Season	Poss. limit
Gen. Rec	16"	Jan. 1 – May 21	Closed
		May 22 – Aug. 31	2 fish/day
		Sept. 1 – Dec. 31	3 fish/day
Party/ Charter	16"	Jan. 1 – June 17	Closed
		June 18 – Aug. 31	2 fish/day
		Sept. 1 – Dec 31	6 fish/day

2023 Management: The Division is accepting proposals for regulatory changes that would achieve a 10% reduction.

Black Sea Bass - 2023 Rec Management



Industry Proposal 1:

Mode	Min. size	Season	Poss. limit	Est. Reduction
Gen. Rec	16" <u>16.5"</u>	Jan. 1 – May 21	Closed	11.75%
		May 22 – Aug. 31	2 fish/day	
		Sept. 1 – Dec. 31	3 fish/day	
Party/Charter	16" <u>16.5"</u>	Jan. 1 – June 17	Closed	
		June 18 – Aug. 31	2 fish/day	
		Sept. 1 – Dec 31	6 fish/day	

Industry Proposal 2:

Mode	Min. size	Season	Poss. limit	Est. Reduction
Gen. Rec	16" <u>16.5"</u>	Jan. 1 – May 21	Closed	11.36%
		May 22 – Aug. 31	2 fish/day	
		Sept. 1 – Dec. 31	3 fish/day	
Party/Charter	16"	Jan. 1 – June 17	Closed	
		June 18 – Aug. 31	2 fish/day	
		Sept. 1 – Dec 31	6 fish/day	

Black Sea Bass - 2023 Rec Management



Industry Proposal 3:

Mode	Min. size	Season	Poss. limit	Reduction
Gen. Rec	16" <u>16.5"</u>	Jan. 1 – May 21	Closed	N/A
		May 22 – Aug. 31	2 fish/day	
		Sept. 1 – Dec. 31	3 fish/day	
Party/Charter	16" <u>16.5"</u>	Jan. 1 – June 17 <u>13</u>	CLOSED	~8%
		June 18 <u>14</u> – Aug. 31	2 fish/day	
		Sept. 1 – Dec 31	6 fish/day	

Industry Proposal 4:

Mode	Min. size	Season	Poss. limit	Est. Reduction
Gen. Rec	16" <u>16.5"</u>	Jan. 1 – May 21	Closed	~10.3%
		May 22 – Aug. 31 <u>24</u>	2 fish/day	
		Sept. 1 <u>Aug. 25</u> – Dec. 31	3 fish/day	
Party/Charter	16" <u>16.5"</u>	Jan. 1 – June 17	Closed	N/A
		June 18 – Aug. 31	2 fish/day	
		Sept. 1 – Dec 31	6 fish/day	



Scup

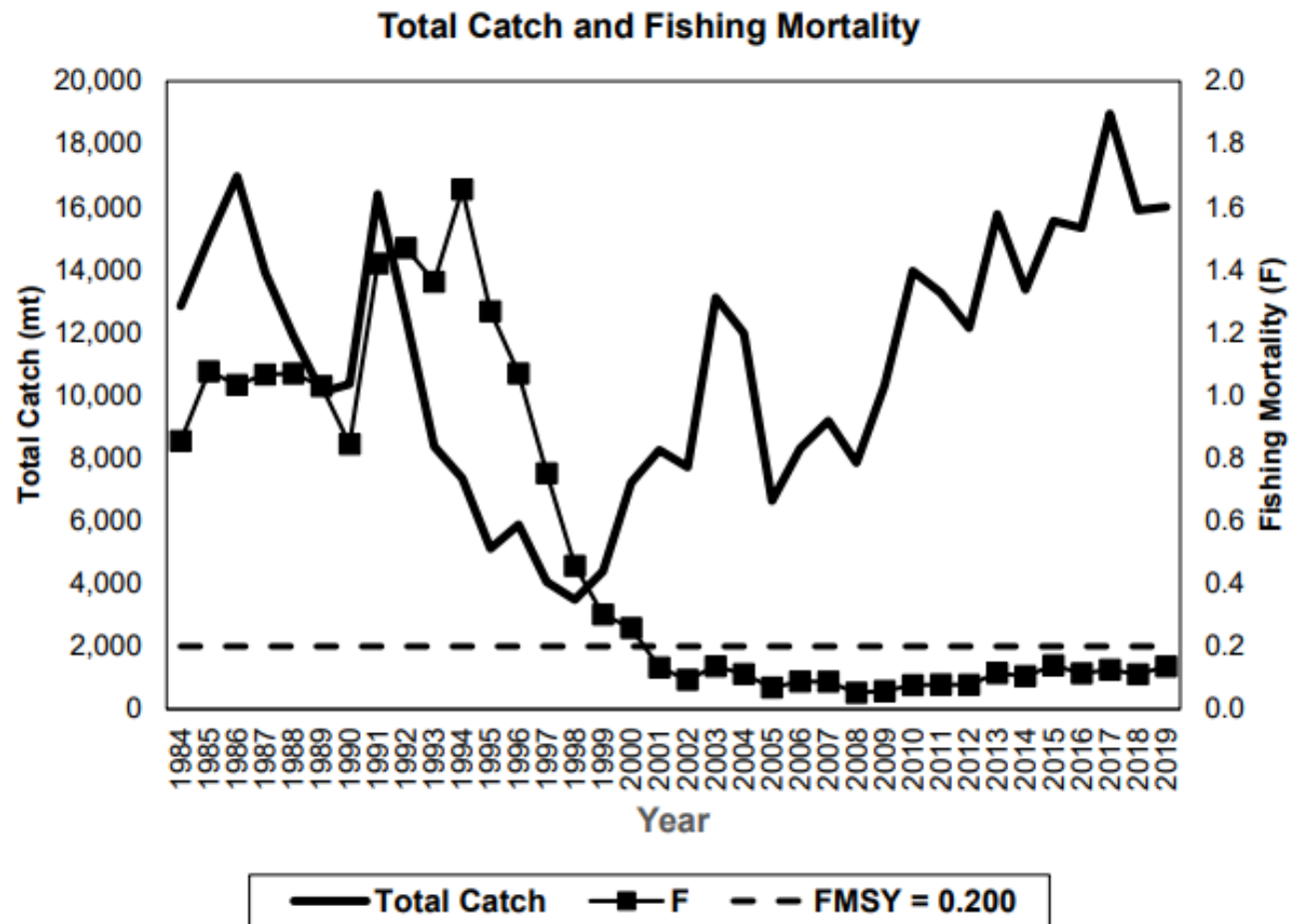
- Summary of Stock Status
- 2022 RI Recreational Fishery Performance
- 2023 Recreational Management

Scup - Stock Status



- Management Track Stock Assessment completed in 2021; biological reference points (BRPs) updated.
- Scup is not overfished; overfishing is not occurring relative to BRPs.

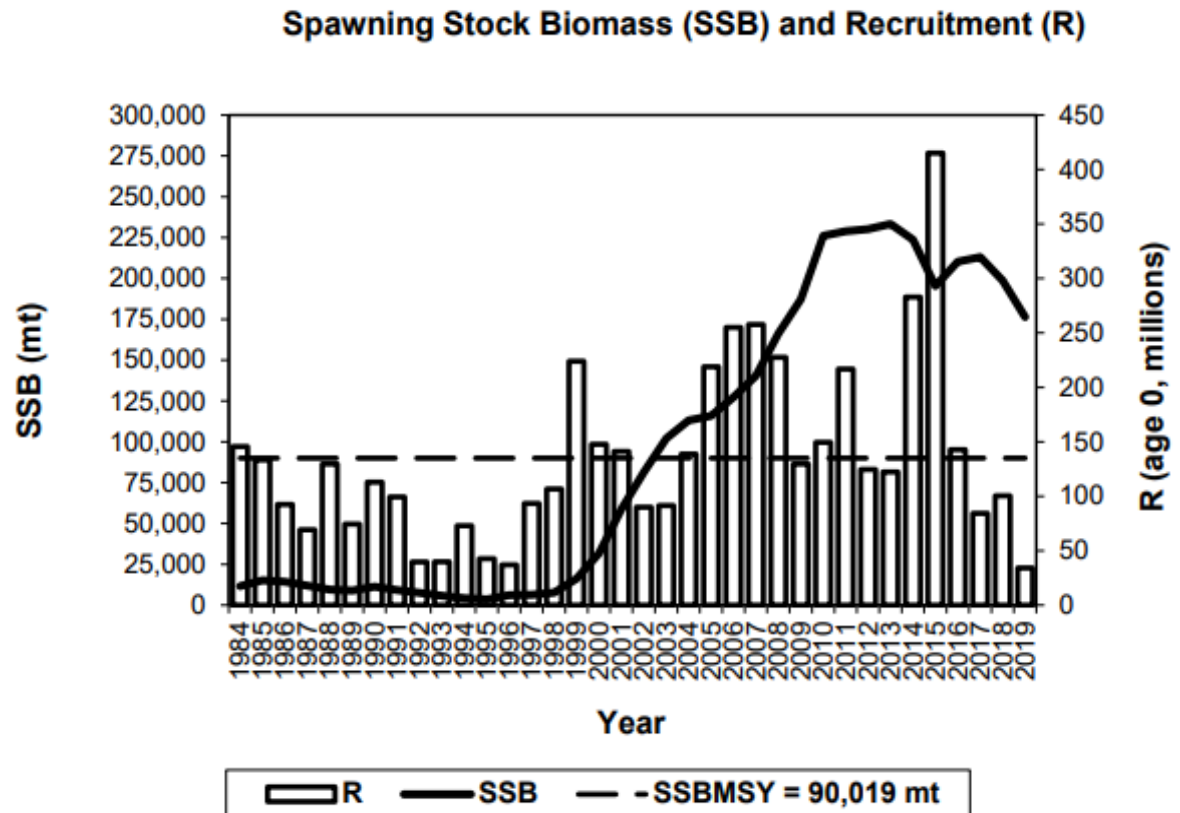
- Fishing mortality was estimated to be 0.136 in 2018, below the threshold F reference point = 0.20.



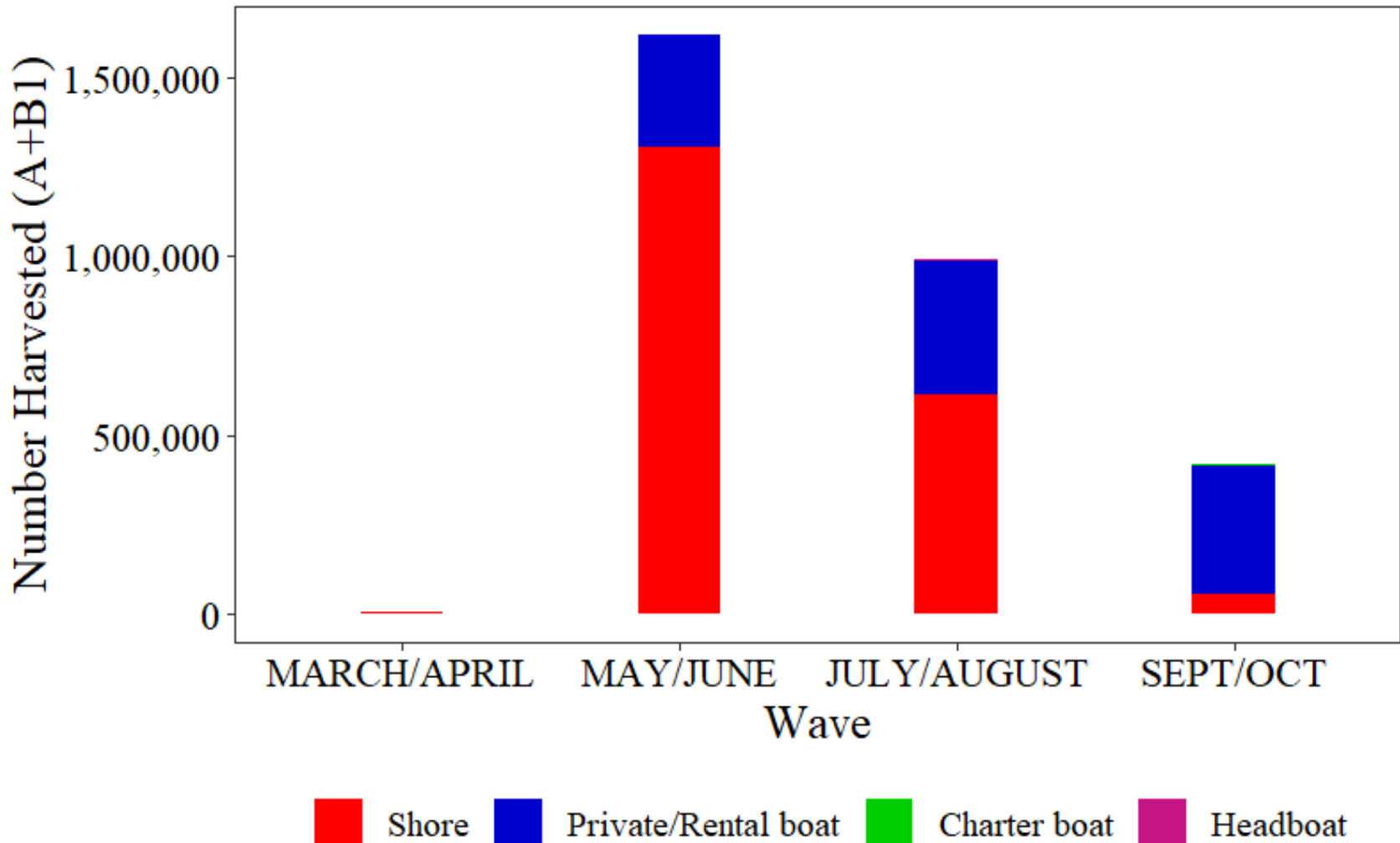
Scup - Stock Status cont'd.



- SSB estimated to be 389 m lbs in 2019, above the updated SSB reference point = 198.46 m lbs and the SSB threshold = 99.23 m lbs.
- 2017 – 2019 year classes estimated to be below average.
- 2023 recreational fishery required to take a 10% reduction
- Council and Board voted to change federal measures: season starts May 1 and possession limit reduced from 50 to 40 fish. States must also achieve 10% reduction



Scup – 2022 RI Recreational Fishery Performance



Source: 2022 MRIP; 2022 data preliminary and only through wave 5

Scup - 2023 Recreational Management



- MAFMC requiring 10% coastwide reduction in 2023

Current management:

Sector	Min. size	Season	Poss. limit
Gen. rec.	10"	Jan. 1 – Dec. 31	30 fish/day
Party/ Charter	10"	Jan. 1 – Aug. 31	30 fish/day
		Sept. 1 – Oct. 31	50 fish/day
		Nov. 1 – Dec. 31	30 fish/day
Special Shore	9"	Jan. 1 – Dec. 31	30 fish/day

2023 Management: The Division is accepting proposals for regulatory changes that would achieve a 10% reduction.

Scup - 2023 Recreational Management



Federal Waters Management:

Sector	Min. size	Season	Poss. limit
All	10"	Jan. 1 <u>May 1</u> – Dec. 31	50 <u>40</u> fish/day

- MAFMC requiring a 10% coastwide reduction in 2023.
- These measures DO NOT achieve the full 10% reduction therefore states need to take additional measures through ASMFC.

Scup - 2023 Recreational Management



Proposal 1 (Regional proposal - CT, NY, MA, RI):

Sector	Min. size	Season	Poss. limit
Gen. rec. <u>Private</u>	10" <u>10.5"</u>	Jan. 1 <u>May 1</u> – Dec. 31	30 fish/day
Party/ Charter	10" <u>10.5"</u>	Jan. 1 <u>May 1</u> – Aug. 31	30 fish/day
		Sept. 1 – Oct. 31	50 <u>40</u> fish/day
		Nov. 1 – Dec. 31	30 fish/day
Special Shore <u>Shore</u>	9"	Jan. 1 <u>May 1</u> – Dec. 31	30 <u>20</u> fish/day

Proposal 2 (Regional proposal - CT, NY, MA, RI):

Sector	Min. size	Season	Poss. limit
Gen. rec. <u>Private</u>	10" <u>10.5"</u>	Jan. 1 <u>May 1</u> – Dec. 31	30 fish/day
Party/ Charter	10" <u>10.5"</u>	Jan. 1 <u>May 1</u> – Aug. 31	30 fish/day
		Sept. 1 – Oct. 31	50 <u>40</u> fish/day
		Nov. 1 – Dec. 31	30 fish/day
Special Shore <u>Shore</u>	9 <u>10"</u>	Jan. 1 <u>May 1</u> – Dec. 31	30 fish/day

**Proposals must still be run through the estimation model to ensure it achieves the required 10% reduction (measures may need to be adjusted).

Scup - 2023 Recreational Management



Proposal 3 (Industry):

Sector	Min. size	Season	Poss. limit
Gen. rec.	10" <u>10.5"</u>	Jan. 1 – Dec. 31	30 fish/day
Party/ Charter	10" <u>10.5"</u>	Jan. 1 – Aug. 31	30 fish/day
		Sept. 1 – Oct. 31	50 fish/day
		Nov. 1 – Dec. 31	30 fish/day
Special Shore	9" <u>9.5"</u>	Jan. 1 – Dec. 31	30 fish/day

Achieves a ~14% reduction

**Proposals must still be run through the estimation model to ensure it achieves the required 10% reduction (measures may need to be adjusted).



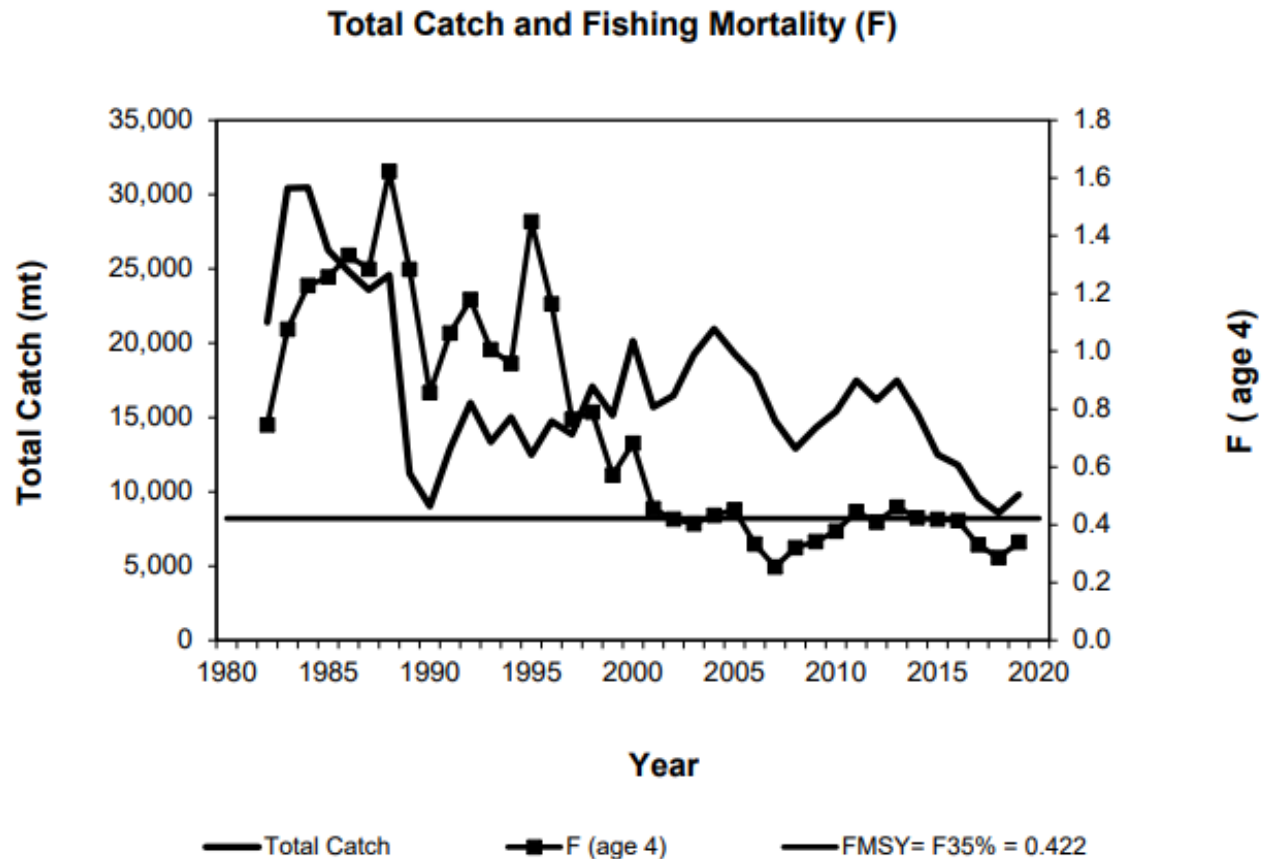
Summer Flounder

- Summary of Stock Status
- 2022 RI Recreational Fishery Performance
- 2023 Recreational Management

Summer Flounder - Stock Status



- Management Track Stock Assessment in 2021; biological reference points (BRPs) updated
- The summer flounder stock is not overfished; overfishing not occurring relative to BRPs.
- Fishing mortality was estimated to be 0.340 in 2019, below the threshold F reference point = 0.422.



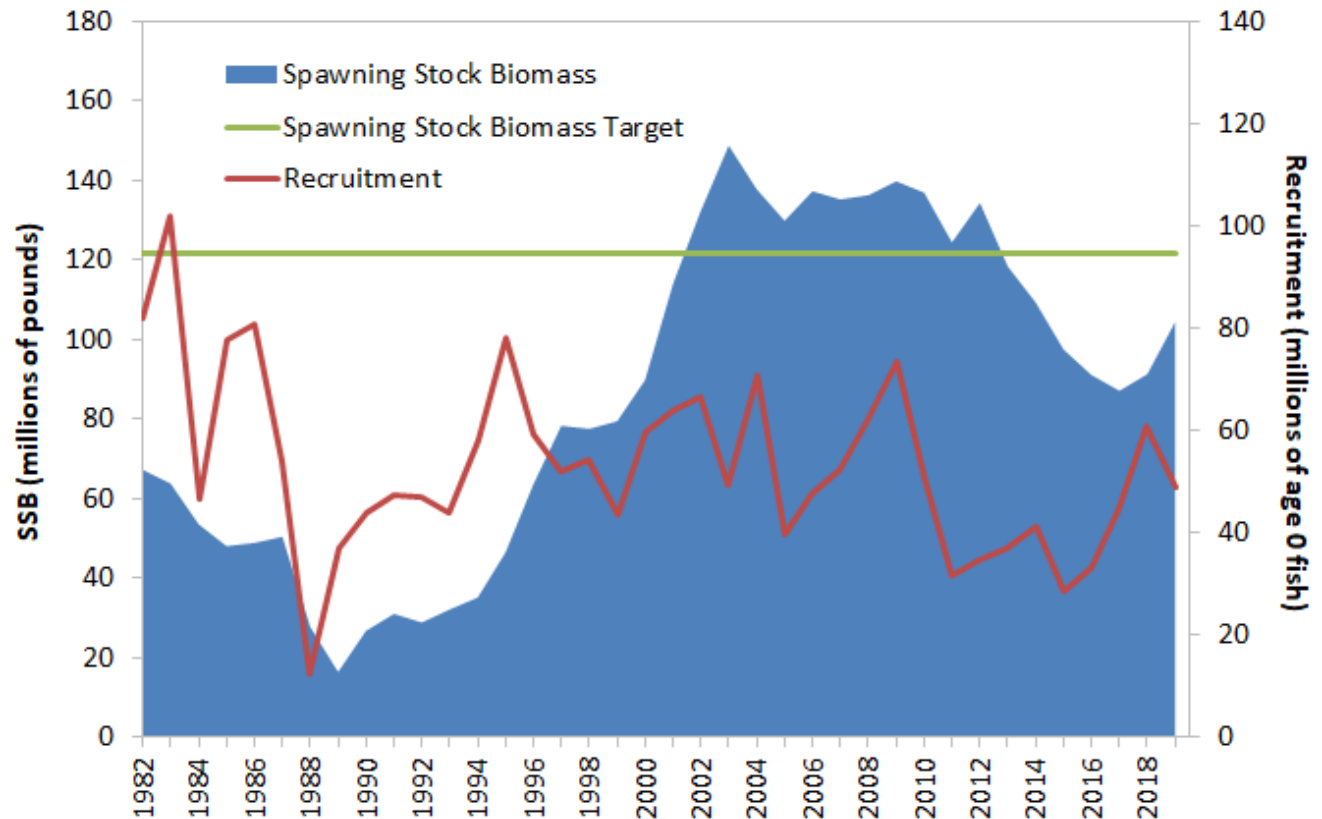
Summer Flounder - Stock Status cont'd.



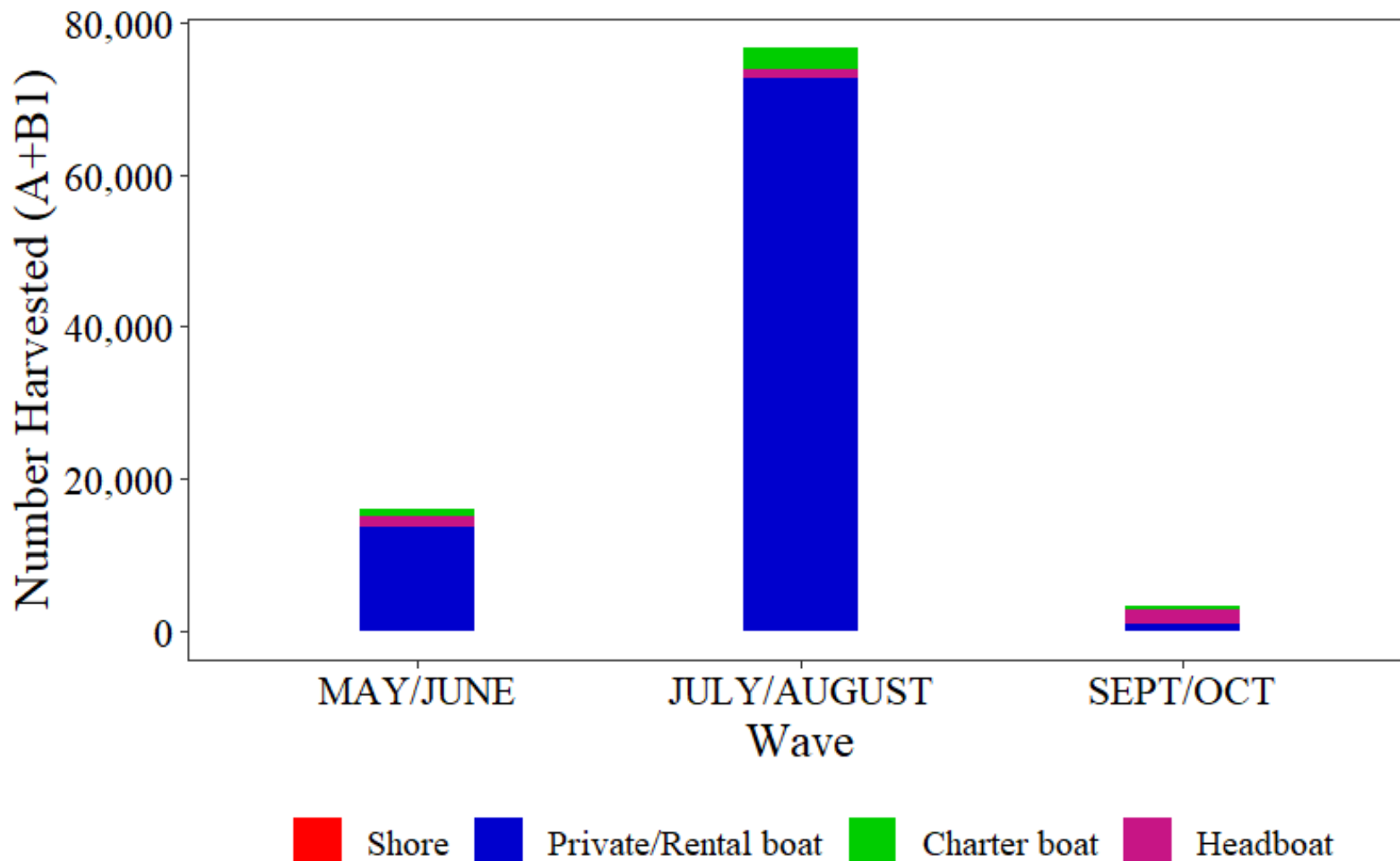
- SSB estimated to be 104.5 m lbs in 2019, below the SSB reference point = 121.7 m lbs but above the SSB threshold = 60.9 m lbs.
- The 2019 year class is currently estimated to be about 49 million fish, below the average of 53 million fish.
- No reduction for summer flounder required in 2023.

Summer Flounder Spawning Stock Biomass (SSB) and Recruitment

Source: Northeast Fisheries Science Center, 2021



Summer Flounder – 2022 RI Recreational Fishery Performance



Source: 2022 MRIP; 2022 data preliminary and only through wave 5



Summer Flounder - 2023 Recreational Management

- Recreational Harvest Limit (RHL) of 10.62 m lbs set for 2023; a 3% increase over the 2022 RHL.

Current management:

Sector	Min. size	Season	Poss. limit
Gen. Rec.	18"	May 3 – Dec. 31	4 fish/day
Special Shore	18" (2 fish may be 17")	May 3 – Dec. 31	4 fish/day

2023 Management: The Division is not proposing changes to recreational Summer Flounder management for 2023 at this time. The ASMFC has specified that summer flounder will remain status quo in 2023.

Definitions and General Provisions



- Addition of several terms consistent with statute
- Removal of terms not used in rules
- Addition of new species (e.g., cobia, Spanish mackerel) to species list
- Other minor non-substantive clarifications

End of Slides!



ASMFC updates concerning Black Sea Bass since noticing of proposed rules

The noticed proposals for black sea bass presented at the public hearing on March 6th were created prior to the Atlantic States Marine Fisheries Commission’s process, wherein states selected lists of *potential* recreational regulations for black sea bass and scup. The Commission’s process entailed running potential proposals through a statistical model developed by NOAA Fisheries to calculate the reduction in harvest expected under these alternative measures. Because noticed proposals 1 and 2 exceeded the required 10% reduction for black sea bass, RI DMF staff worked via the Commission process to modify these proposals and get closer to the 10% reduction. The modifications were informed by RI Proposals 3 and 4, which specify how each mode might achieve a 10% reduction on its own. As a result of these analyses, it is recommended that the black sea bass proposals be modified as follows so that the reduction achieved does not significantly exceed that which is required by the Management Board:

Proposal #1 (industry proposal):

Mode	Min. Size	Season	Poss. limit
General Recreational	16 16.5”	May 22 – Aug. 31	2 fish/day
		Sept. 1 – Dec. 31	3 fish/day
Party/Charter	16 16.5”	June 18 – Aug. 31	2 fish/day
		Sept. 1 – Dec. 31	3 fish/day

Proposal #1 recommended modification (alter season dates to get closer to 10% reduction):

Mode	Min. Size	Season	Poss. limit
General Recreational	16 16.5”	May 22 – Aug. 31 26	2 fish/day
		Sept. 1 Aug. 27 – Dec. 31	3 fish/day
Party/Charter	16 16.5”	June 18 17 – Aug. 31	2 fish/day
		Sept. 1 – Dec. 31	3 fish/day

With the proposed modifications, proposal #1 is estimated to achieve a **10.6%** reduction in black sea bass recreational harvest (10.6% for private, 10.4% for for-hire). By comparison, the unmodified proposal is estimated to achieve a 11.7% reduction.

Proposal #2 (industry proposal):

Mode	Min. Size	Season	Poss. limit
General Recreational	16 16.5”	May 22 – Aug. 31	2 fish/day
		Sept. 1 – Dec. 31	3 fish/day
Party/Charter	16”	June 18 – Aug. 31	2 fish/day
		Sept. 1 – Dec. 31	3 fish/day

Proposal #2 recommended modification (alter private mode only: change season dates to get closer to 10% reduction):

Mode	Min. Size	Season	Poss. limit
General Recreational	16 16.5”	May 22 – Aug. 31 26	2 fish/day
		Sept. 1 Aug. 27 – Dec. 31	3 fish/day
Party/Charter	16”	June 18 – Aug. 31	2 fish/day
		Sept. 1 – Dec. 31	3 fish/day

With the proposed modifications, proposal #2 is estimated to achieve a **10.3%** reduction in black sea bass recreational harvest, with the private mode taking the reduction for the entire recreational harvest sector (i.e. for hire does not modify their regulations or take a reduction).

Please note that these modified proposals now incorporate elements of originally noticed Proposals 3 and 4:

Proposal #3 (industry proposal):

Mode	Min. Size	Season	Poss. limit
General Recreational	16 ²² 16.5"	May 22 – Aug. 31	2 fish/day
		Sept. 1 – Dec. 31	3 fish/day
Party/Charter	16 ²² 16.5"	June 18 ¹⁷ – Aug. 31	2 fish/day
		Sept. 1 – Dec. 31	3 fish/day

Proposal 4 (Industry proposal):

Mode	Min. Size	Season	Poss. limit
General Recreational	16 ²² 16.5"	May 22 – Aug. 31 ²⁶	2 fish/day
		Sept. 1 ^{Aug. 27} – Dec. 31	3 fish/day
Party/Charter	16 ²² 16.5"	June 18 – Aug. 31	2 fish/day
		Sept. 1 – Dec. 31	3 fish/day

Proposals 3 and 4 were written to be specific to the for-hire and private modes individually. Proposal 3 omits specifications for the general recreational mode’s measures, while Proposal 4 omits specifications for the for-hire mode. This was so that each mode could speak to their strategies for achieving the 10% individually without speaking for the other mode.. Note that these proposals may be combined to achieve a 10% for the entire fishery (the equivalent of modified Proposal 1).

In summary, there are essentially two potential paths for black sea bass management, with the main distinction being in how each mode is expected to achieve the 10% reduction:

- 1. Have each mode be accountable for achieving a 10% reduction on its own (modified Proposal 1)**
- 2. Change regulations for the private mode only to achieve a 10% reduction for the entire black sea bass recreational sector (modified Proposal 2).**

250-RICR-90-00-3

TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 90 – MARINE FISHERIES

SUBCHAPTER 00 – N/A

PART 3 – Finfish

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3.1 Purpose

The purpose of these Rules and Regulations is to manage the marine resources of Rhode Island.

3.2 Authority

These Rules and Regulations are promulgated pursuant to R.I. Gen. Laws Title 20, R.I. Gen. Laws Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with R.I. Gen. Laws § 42-35-18(b)(5), Administrative Procedures Act, as amended.

3.3 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.

3.4 Definitions

See Definitions and General Provisions, Part [1](#) of this Subchapter.

3.5 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.

3.6 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 these Regulations 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.

3.7 License Required

3.7.1 Recreational

- A. Applicability: No person shall take finfish or squid recreationally from the marine waters of Rhode Island without a valid recreational saltwater fishing license. Finfish taken recreationally shall not be sold or offered for sale. A person is considered to be engaging in recreational fishing if they are engaged in the process of angling via the use of any type of hook and line, or spearfishing via

the use of any type of spear or powerhead, or if they possess equipment used for angling or spearfishing and are in possession of finfish or squid. A valid recreational saltwater fishing license may include any of the following:

1. A Rhode Island recreational saltwater fishing license issued by the Director.
 2. A recreational saltwater fishing license from a reciprocal State. Reciprocal States are listed at saltwater.ri.gov.
 3. A national saltwater angler registration.
- B. Anglers and spearfishers must be in possession of, or within close proximity to, their license at all times while engaged in angling or spearfishing. The term close proximity shall be construed to mean aboard a vessel, on which or from which an individual is angling or spearfishing; or, for shore-based anglers, or spearfishers, within a nearby car or other location that is within walking distance from the point of exit from the water.
- C. Anglers and spearfishers shall present a valid and current recreational saltwater fishing license for inspection upon demand by an authorized law enforcement officer.
- D. Failure to meet the terms of § 3.7.1 of this Part shall be deemed a violation, subject to the penalties set forth under R.I. Gen. Laws § 20-2.2-8.
- E. Exemptions. A license is not required for the following:
1. Persons under sixteen (16) years of age.
 2. Persons on party or charter vessels licensed in accordance with R.I. Gen. Laws § 20-2-27.1.
 3. Licensed party or charter vessel operators when fishing in party/charter mode.
 4. Persons who are on leave from active military duty.
 5. Persons who are blind or permanently disabled.
 6. Persons who hold a valid Federal Highly Migratory Species Angling Permits.
 7. For days designated by the Director as a free fishing day.
 8. Persons exempt shall provide proof and photo ID to an authorized law enforcement officer upon request.

3.7.2 Commercial

No person shall take finfish or squid from the marine waters of Rhode Island commercially without a valid commercial fishing license issued by the Director pursuant to Part 2 of this Subchapter.

3.8 General Provisions

- A. Transfer at sea: No one may transfer or attempt to transfer at sea, from one (1) vessel to another, any finfish that are subject to these Regulations.
- B. Obstruction of migratory fish passage: No person shall obstruct the free passage of anadromous or catadromous fish in any marine waters, river, or stream, of the State of Rhode Island.
- C. Seasons and possession limits are subject to change throughout the season pursuant to § [1.7](#) of this Subchapter. Notification of any such modification is made pursuant to § 1.7(B)(4) of this Subchapter. It is the responsibility of the licensed ~~fisherman~~person to comply with possession limits and all such modifications.

3.9 Black Sea Bass

Recreational Black Sea Bass - Proposal #1 (industry proposal):

3.9.1 Recreational

- A. Minimum size: Sixteen and one half inches (16.5"). Minimum size measurement for black sea bass does not include the tendril located on the caudal (tail) fin.
- B. Season and possession limit:
 - 1. January 1 through May 21: Closed
 - 2. May 22 through August 31: Two (2) fish per person per calendar day
 - 3. September 1 through December 31: Three (3) fish per person per calendar day
- C. Licensed Party and Charter vessels season and possession limit:
 - 1. January 1 through June 17: Closed
 - 2. June 18 through August 31: Two (2) fish per person per calendar day
 - 3. September 1 through December 31: Six (6) fish per person per day

Recreational Black Sea Bass - Proposal #2 (industry proposal):

3.9.1 Recreational

- A. Minimum size: Sixteen and one half inches (~~46~~16.5"). Minimum size measurement for black sea bass does not include the tendril located on the caudal (tail) fin.
- B. Season and possession limit:
 - 1. January 1 through May 21: Closed
 - 2. May 22 through August 31: Two (2) fish per person per calendar day
 - 3. September 1 through December 31: Three (3) fish per person per calendar day
- C. Licensed Party and Charter vessels ~~season and possession limit:~~
 - 1. Minimum size: Sixteen inches (16"). Minimum size measurement for black sea bass does not include the tendril located on the caudal (tail) fin.
 - 2. Season and possession limit:
 - ~~4~~a. January 1 through June 17: Closed
 - ~~2~~b. June 18 through August 31: Two (2) fish per person per calendar day
 - ~~3~~c. September 1 through December 31: Six (6) fish per person per day

Recreational Black Sea Bass - Proposal #3 (industry proposal):

3.9.1 Recreational

- A. Minimum size: Sixteen and one half inches (~~46~~16.5"). Minimum size measurement for black sea bass does not include the tendril located on the caudal (tail) fin.
- B. Season and possession limit:
 - 1. January 1 through May 21: Closed
 - 2. May 22 through August 31: Two (2) fish per person per calendar day
 - 3. September 1 through December 31: Three (3) fish per person per calendar day
- C. Licensed Party and Charter vessels season and possession limit:

1. January 1 through June ~~17~~16: Closed
 2. June ~~18~~17 through August 31: Two (2) fish per person per calendar day
 3. September 1 through December 31: Six (6) fish per person per day
-

Recreational Black Sea Bass - Proposal #4 (industry proposal):

3.9.1 Recreational

- A. Minimum size: Sixteen and one half inches (~~16~~16.5"). Minimum size measurement for black sea bass does not include the tendril located on the caudal (tail) fin.
 - B. Season and possession limit:
 1. January 1 through May 21: Closed
 2. May 22 through August ~~31~~26: Two (2) fish per person per calendar day
 3. ~~September 1~~ August 27 through December 31: Three (3) fish per person per calendar day
 - C. Licensed Party and Charter vessels season and possession limit:
 1. January 1 through June 17: Closed
 2. June 18 through August 31: Two (2) fish per person per calendar day
 3. September 1 through December 31: Six (6) fish per person per day
-

3.9.2 Commercial

- A. Minimum size: Eleven inches (11")
- B. Season, allocation, and possession limit:
 1. January 1 through April 30:
 - a. Allocation: Twenty percent (20%) of the quota
 - b. Possession limit: Five hundred (500) pounds per vessel per week
 2. May 1 through June 30:

- a. Allocation: Twenty-five percent (25%) of the quota
 - b. Possession limit: Fifty (50) pounds per vessel per calendar day
 3. July 1 through August 15:
 - a. Allocation: Twenty-five percent (25%) of the quota
 - b. Possession limit: Fifty (50) pounds per vessel per calendar day
 4. August 16 through September 15:
 - a. Allocation: Ten percent (10%) of the quota
 - b. Possession limit: Fifty (50) pounds per vessel per calendar day
 5. September 16 through October 15:
 - a. Allocation: Ten percent (10%) of the quota
 - b. Possession limit: One hundred (100) pounds per vessel per calendar day
 6. October 16 through December 31:
 - a. Allocation: Ten percent (10%) of the quota
 - b. Possession limit: One hundred (100) pounds per vessel per calendar day
- C. Minimum mesh size – otter trawl:
1. Owners or operators of otter trawl vessels possessing greater than five hundred (500) pounds of black sea bass from January 1 through March 31; or greater than one hundred (100) pounds of black sea bass from April 1 through December 31, may only use nets that have a minimum mesh size of four and one half inches (4 1/2") diamond mesh (inside measure) applied throughout the codend for at least seventy-five (75) continuous meshes forward of the terminus of the net; or, for trawl nets with codends (including an extension) less than seventy-five (75) meshes, the trawl net must have a minimum mesh size of four and one half inches (4 1/2") diamond mesh throughout.
 2. Vessels possessing trawl devices while harvesting black sea bass in excess of the possession limits specified herein may have nets onboard the vessel that have a mesh size less than the minimum size specified in the Regulations provided that the net is stowed and is not available for immediate use.

D. Black sea bass pot construction

1. All black sea bass pots must be constructed with two (2) escape openings in the parlor portion of the pot. Openings may be circular, rectangular, or square, and must be a minimum of two and one half inches (2 1/2") diameter if circular, one and three eighths inches (1 3/8") by five and three quarters inches (5 3/4") if rectangular, two inches (2") by two inches (2") if square. Escape vents must be attached with biodegradable fasteners which allow vents or panels to fall away from the trap after loss.
2. The hinges or fasteners of one (1) panel or door must be made of one (1) of the degradable materials listed below. This panel or door must be a minimum of three inches (3") by six inches (6") in dimension.
 - a. Un-treated hemp, jute, or cotton string three sixteenths of an inch (3/16") or smaller;
 - b. Magnesium alloy, timed float releases (pop-up devices) or similar magnesium alloy fasteners;
 - c. Un-galvanized or uncoated iron wire of three thirty seconds of an inch (3/32") or smaller; or
 - d. If "bungee" cord or other elasticized material is used to fasten the top, it must be secured to the trap with a degradable hog ring.

3.10 Scup

Recreational Scup - Proposal #1 (regional proposal):

3.10.1 Recreational

- ~~A. Minimum size: Ten and inches (10")~~
- ~~B. Season: January 1 through December 31~~
- ~~C. Possession limit: Thirty (30) fish per person per calendar day~~
- ~~D. Special shore angling sites:
 - ~~1. Locations: India Point Park, Providence; Conimicut Park, Warwick; Rocky Point, Warwick; Stone Bridge, Tiverton; East and West Walls (Harbor of Refuge), Narragansett; Fort Wetherill, Jamestown; and Fort Adams, Newport~~
 - ~~2. Minimum size: Nine inches (9")~~
 - ~~3. Season: January 1 through December 31~~~~

~~4. Possession limit: Thirty (30) fish per person per calendar day~~

~~E. Licensed Party and Charter vessels season and possession limit:~~

~~1. January 1 through August 31: Thirty (30) fish per person per calendar day~~

~~2. September 1 through October 31: Fifty (50) fish per person per calendar day~~

~~3. November 1 through December 31: Thirty (30) fish per person per calendar day~~

A. Private and rental:

1. Minimum size: Ten and a half inches (10.5").

2. Season: May 1 through December 31.

3. Possession limit: Thirty (30) fish per person per calendar day.

B. Licensed Party and Charter vessels:

1. Minimum size: Ten and a half inches (10.5").

2. Season and possession limit:

a. May 1 through August 31: Thirty (30) fish per person per calendar day.

b. September 1 through October 31: Forty (40) fish per person per calendar day.

c. November 1 through December 31: Thirty (30) fish per person per calendar day.

C. Shore mode:

1. Minimum size: Nine and one half inches (9.5").

2. Season: May 1 through December 31.

3. Possession limit: Thirty (30) fish per person per calendar day.

Recreational Scup - Proposal #2 (industry proposal):

3.10.1 Recreational

- A. Minimum size: Ten and one half inches (~~10~~10.5")
- B. Season: January 1 through December 31
- C. Possession limit: Thirty (30) fish per person per calendar day
- D. Special shore angling sites:
 - 1. Locations: India Point Park, Providence; Conimicut Park, Warwick; Rocky Point, Warwick; Stone Bridge, Tiverton; East and West Walls (Harbor of Refuge), Narragansett; Fort Wetherill, Jamestown; and Fort Adams, Newport
 - 2. Minimum size: Nine and one half inches (9.5")
 - 3. Season: January 1 through December 31
 - 4. Possession limit: Thirty (30) fish per person per calendar day
- E. Licensed Party and Charter vessels season and possession limit:
 - 1. January 1 through August 31: Thirty (30) fish per person per calendar day
 - 2. September 1 through October 31: Fifty (50) fish per person per calendar day
 - 3. November 1 through December 31: Thirty (30) fish per person per calendar day

3.10.2 Commercial

- A. Minimum size: Nine inches (9")
- B. Season, quota and possession limit:
 - 1. January 1 through April 30 (Federal Winter I) possession limit: Fifty thousand (50,000) pounds per vessel per calendar day, decreasing to one thousand (1,000) pounds per vessel per calendar day once eighty percent (80%) of the Federal Winter I coastwide scup quota has been harvested as determined by NOAA Fisheries
 - 2. May 1 through September 30: The State quota for this sub-period will be divided as follows:
 - a. General Category (gear types other than floating fish traps): Forty percent (40%)

- (1) Possession limit: Unlimited
- b. Floating fish trap: Sixty percent (60%)
- (1) During years in which the Federal Winter I coastwide scup quota is exhausted prior to April 15, the floating fish trap quota will be available on April 15. During years in which the Federal Winter I coastwide scup quota is not exhausted prior to April 15, the floating fish trap quota will be available on May 1.
 - (2) If the DEM estimates that the floating fish trap sector will not fully utilize its scup allocation prior to the end of the Summer-Fall sub-period, beginning on June 15, the DEM may transfer the floating fish trap sector allocation to the general category sector. DEM will consult with the floating fish trap operators or their designee prior to enacting any allocation transfer, and will maintain written correspondence in the form of a letter on file as proof of said consultation.
 - (3) If the DEM estimates that the floating fish trap sector has a reasonable likelihood of utilizing its quota prior to the end of the sub-period, a portion of any unused allocation that was transferred to the general category sector may be transferred back to the floating fish trap sector. Any quota that was transferred from the general category sector to the floating fish trap sector shall not exceed the amount that may have been transferred from the floating fish trap sector to the general category sector.
 - (4) Reporting: Floating fish trap operators shall report landings of scup to Standard Atlantic Fisheries Information System (SAFIS) every Monday, Wednesday, and Friday, of every week that the trap is in operation. If there is non-compliance with this reporting requirement, the floating fish trap operators will be notified and will default to the following program:
 - (AA) April 15 through September 30: During those years in which the Federal Winter I coastwide scup quota is exhausted prior to April 15, the floating fish trap quota will be available on April 15. The possession limit will be twenty-five thousand (25,000) pounds per floating fish trap per calendar day. Once ninety percent (90%) of the sub-period allocation is projected to be harvested, the possession limit will be five thousand (5,000) pounds per fish trap licensee per calendar day

until one hundred percent (100%) of the quota has been harvested.

(BB) May 1 through September 30: During those years in which the Federal Winter I coastwide scup quota is not exhausted prior to April 15, the floating fish trap quota will be available on May 1. The possession limit will be twenty-five thousand (25,000) pounds per floating fish operator per calendar day. Once ninety percent (90%) of the sub-period allocation is projected to be harvested, the possession limit will be five thousand (5,000) pounds per fish trap licensee per calendar day until one hundred percent (100%) of the quota has been harvested.

(CC) Floating fish trap operator: For purposes of this section, a fish trap operator shall refer to a resident person or resident corporation currently issued a permit pursuant to R.I. Gen. Laws § 20-5-2. The maximum possession limit per floating fish trap licensee shall be the amount set forth above regardless of the number of authorized trap locations, the number of vessels or the number of licensed fishermen who may be working for or may enter into contract with the floating fish trap operator. While engaged in the operation of a fish trap, any licensed fisherman that may be working for or may enter into contract with the floating fish trap operator waives any individual right to possess scup pursuant to a possession limit set out in these Regulations.

3. October 1 through December 31 (Federal Winter II): Two thousand (2,000) pounds per vessel per calendar day, decreasing to five hundred (500) pounds per vessel per calendar day once seventy percent (70%) of the Federal Winter II coastwide scup quota has been harvested as determined by NOAA Fisheries

C. Minimum mesh size – otter trawl:

1. Owners or operators of otter trawl vessels possessing greater than one thousand (1,000) pounds of scup from October 1 through April 14; or greater than two thousand (2,000) pounds of scup from April 15 through June 15; or greater than two hundred (200) pounds of scup from June 16 through September 30, may only fish with nets that have a minimum mesh size of five inches (5") diamond (inside measure) or square mesh with a minimum length of seventy-five (75) meshes from the terminus of the net.

For nets with less than seventy-five (75) mesh cod ends, the entire net will be five inches (5") minimum size diamond or square mesh.

2. Vessels possessing trawl devices while harvesting scup in excess of the possession limits specified herein may have nets onboard the vessel that have a mesh size less than the minimum size specified in the Regulations provided that the net is stowed and is not available for immediate use.

D. Scup pots

1. Pot limits: Each person utilizing pots in the scup fishery shall be authorized to deploy up to one hundred fifty (150) pots regardless of the number of licenses on board the vessel.
2. Pot construction – escape vents: All scup pots must be constructed with escape openings. Openings may be circular, rectangular, or square, and must be a minimum of three and one tenth inches (3 1/10") diameter, two and one quarter inches (2 1/4") by five and three quarter inches (5 3/4") if rectangular or may be constructed of two and one quarter inches (2 1/4") by two and one quarter inches (2 1/4") wire mesh. Escape vents must be attached with biodegradable fasteners which allow vents or panels to fall away from the trap after loss.
3. The hinges or fasteners of one (1) panel or door must be made of one (1) of the following degradable materials:
 - a. Un-treated hemp, jute, or cotton string three sixteenths of an inch (3/16") or smaller;
 - b. Magnesium alloy, timed float releases (pop-up devices) or similar magnesium alloy fasteners;
 - c. Un-galvanized or uncoated iron wire of three thirty seconds of an inch (3/32") or smaller; or
 - d. If "bungee" cord or other elasticized material is used to fasten the top, it must be secured to the trap with a degradable hog ring.

3.11 Striped Bass

3.11.1 Recreational

- A. Minimum size: Twenty-eight inches (28")
- B. Maximum size: Less than thirty-five inches (< 35")
- C. Season: January 1 through December 31

- D. Possession limit: One (1) fish per person per day
- E. Any person recreationally harvesting a striped bass thirty-four inches (34”) or larger shall at the time of harvest have the right pectoral fin removed at a point as close to the body of the fish as possible.
- F. Gear Restrictions:
 - 1. The use of circle hooks is required by any person while fishing recreationally with bait for striped bass.
 - a. Bait is defined as any marine or aquatic organism live or dead, whole or parts thereof.
 - b. The circle hook requirement shall not apply to any artificial lure with bait attached.
 - 2. Striped bass caught on any unapproved method of take must be returned to the water immediately without unnecessary injury.
 - 3. It shall be unlawful for any person to gaff or attempt to gaff any striped bass at any time when fishing recreationally. Use of a spear or bolt while diving (SCUBA, Snorkeling or free) shall not be considered gaffing.
 - a. A gaff is defined as an implement used after a fish has been caught by other means, to puncture, hook or penetrate the fish during the process of retrieval or release of said fish. For the purpose of this definition, a spear or bolt commonly used in spearfishing will not be considered a gaff.

Commercial General Category Striped Bass - Proposal #1 (Division proposal):

3.11.2 Commercial

- A. General Category
 - 1. Minimum size: Thirty-four inches (34”) or greater
 - 2. Allocation: Sixty-one percent (61%) of the annual Rhode Island commercial quota
 - 3. Season and possession limit:
 - a. January 1 through May ~~31~~ 28: Closed
 - b. ~~June 1~~ May 29 through July 5:
 - (1) Allocation: Fifty percent (50%) of the general category quota

- (2) Possession limit: Five (5) fish per person per calendar day, or if fishing from a vessel, five (5) fish per vessel per calendar day
 - (3) The fishery will be closed in each calendar week on Thursday, Friday, Saturday and Sunday during this sub-period. ~~There will be no commercial possession or s~~ale of striped bass on these days for general category commercial fishermen is prohibited.
 - c. July 6 through December 31:
 - (1) Allocation: Fifty percent (50%) of the general category quota
 - (2) Possession limit: Five (5) fish per person per calendar day, or if fishing from a vessel, five (5) fish per vessel per calendar day
 - (3) The fishery will be closed in each calendar week on Friday, Saturday and Sunday during this sub-period. There will be no commercial possession or sale of striped bass on these days for general category commercial fishermen.
 4. On September 1, a minimum of 50% of the remaining FFT allocation may be transferred to the General Category (GC) and, if such transfer occurs, the GC fishery shall be opened until that allocation is estimated to be harvested.
 5. Floating fish trap allocation that has been transferred to the general category fishery may be transferred back to the floating fish trap fishery. Any allocation transferred back to the floating fish trap fishery shall not exceed the amount of the original transfer.
-

Commercial General Category Striped Bass - Proposal #2 (industry proposal):

3.11.2 Commercial

A. General Category

1. Minimum size: Thirty-four inches (34") or greater
2. Allocation: Sixty-one percent (61%) of the annual Rhode Island commercial quota
3. Season and possession limit:

- a. January 1 through May 31: Closed
- b. June 1 through ~~July 5~~ December 31:
 - (1) Allocation: ~~Fifty~~ One hundred percent (~~50~~ 100%) of the general category quota
 - (2) Possession limit: Five (5) fish per person per calendar day, or if fishing from a vessel, five (5) fish per vessel per calendar day
 - (3) The fishery will be closed in each calendar week on Tuesday, Thursday, Friday, Saturday and Sunday during this sub-period. ~~There will be no commercial possession or s~~ Sale of striped bass on these days for general category commercial fishermen is prohibited.
- ~~c. July 6 through December 31:~~
 - ~~(1) Allocation: Fifty percent (50%) of the general category quota~~
 - ~~(2) Possession limit: Five (5) fish per person per calendar day, or if fishing from a vessel, five (5) fish per vessel per calendar day~~
 - ~~(3) The fishery will be closed in each calendar week on Friday, Saturday and Sunday during this sub-period. There will be no commercial possession or sale of striped bass on these days for general category commercial fishermen.~~
4. On September 1, a minimum of 50% of the remaining FFT allocation may be transferred to the General Category (GC) and, if such transfer occurs, the GC fishery shall be opened until that allocation is estimated to be harvested.
5. Floating fish trap allocation that has been transferred to the general category fishery may be transferred back to the floating fish trap fishery. Any allocation transferred back to the floating fish trap fishery shall not exceed the amount of the original transfer.

Commercial General Category Striped Bass - Proposal #3 (industry proposal):

3.11.2 Commercial

A. General Category

1. Minimum size: Thirty-four inches (34") or greater
 2. Allocation: Sixty-one percent (61%) of the annual Rhode Island commercial quota
 3. Season and possession limit:
 - a. January 1 through May 31: Closed
 - b. June 1 through July 5³:
 - (1) Allocation: Fifty percent (50%) of the general category quota
 - (2) Possession limit: Five (5) fish per person per calendar day, or if fishing from a vessel, five (5) fish per vessel per calendar day
 - (3) The fishery will be closed in each calendar week on Wednesday, Friday, Saturday and Sunday during this sub-period. ~~There will be no commercial possession or s~~Sale of striped bass on these days for general category commercial fishermen is prohibited.
 - c. July 6⁴ through December 31:
 - (1) Allocation: Fifty percent (50%) of the general category quota
 - (2) Possession limit: Five (5) fish per person per calendar day, or if fishing from a vessel, five (5) fish per vessel per calendar day
 - (3) The fishery will be closed in each calendar week on Wednesday, Friday, Saturday and Sunday during this sub-period. ~~There will be no commercial possession or s~~Sale of striped bass on these days for general category commercial fishermen is prohibited.
 4. On September 1, a minimum of 50% of the remaining FFT allocation may be transferred to the General Category (GC) and, if such transfer occurs, the GC fishery shall be opened until that allocation is estimated to be harvested.
 5. Floating fish trap allocation that has been transferred to the general category fishery may be transferred back to the floating fish trap fishery. Any allocation transferred back to the floating fish trap fishery shall not exceed the amount of the original transfer.
-

Commercial General Category Striped Bass - Proposal #4 (industry proposal):

3.11.2 Commercial

A. General Category

1. Minimum size: Thirty-four inches (34") or greater
2. Allocation: Sixty-one percent (61%) of the annual Rhode Island commercial quota
3. Season and possession limit:
 - a. January 1 through May ~~31~~21: Closed
 - b. ~~June 1~~ May 22 through July 5:
 - (1) Allocation: Fifty percent (50%) of the general category quota
 - (2) Possession limit: Five (5) fish per person per calendar day, or if fishing from a vessel, five (5) fish per vessel per calendar day
 - (3) The fishery will be closed in each calendar week on Thursday, Friday, Saturday and Sunday during this sub-period. ~~There will be no commercial possession or sale~~ of striped bass on these days for general category commercial fishermen is prohibited.
 - c. July 6 through December 31:
 - (1) Allocation: Fifty percent (50%) of the general category quota
 - (2) Possession limit: Five (5) fish per person per calendar day, or if fishing from a vessel, five (5) fish per vessel per calendar day
 - (3) The fishery will be closed in each calendar week on Thursday, Friday, Saturday and Sunday during this sub-period. ~~There will be no commercial possession or sale~~ of striped bass on these days for general category commercial fishermen is prohibited.
4. On September 1, a minimum of 50% of the remaining FFT allocation may be transferred to the General Category (GC) and, if such transfer occurs, the GC fishery shall be opened until that allocation is estimated to be harvested.

5. Floating fish trap allocation that has been transferred to the general category fishery may be transferred back to the floating fish trap fishery. Any allocation transferred back to the floating fish trap fishery shall not exceed the amount of the original transfer.

Commercial General Category Striped Bass - Proposal #5 (industry proposal):

3.11.2 Commercial

A. General Category

1. Minimum size: Thirty-four inches (34") or greater
2. Allocation: Sixty-one percent (61%) of the annual Rhode Island commercial quota
3. Season and possession limit:
 - a. January 1 through May ~~31~~ 21: Closed
 - b. ~~June 1~~ May 22 through ~~July 5~~ December 31:
 - (1) Allocation: ~~Fifty~~ One hundred percent (~~50~~ 100%) of the general category quota
 - (2) Possession limit: Five (5) fish per person per calendar day, or if fishing from a vessel, five (5) fish per vessel per calendar day
 - (3) The fishery will be closed in each calendar week on Thursday, Friday, Saturday and Sunday during this sub-period. There will be no commercial possession or sale of striped bass on these days for general category commercial fishermen.
 - c. ~~July 6 through December 31~~:
 - (1) ~~Allocation: Fifty percent (50%) of the general category quota~~
 - (2) ~~Possession limit: Five (5) fish per person per calendar day, or if fishing from a vessel, five (5) fish per vessel per calendar day~~
 - (3) ~~The fishery will be closed in each calendar week on Friday, Saturday and Sunday during this sub-period. There will be no commercial possession or sale of striped bass on these days for general category commercial fishermen.~~

4. On September 1, a minimum of 50% of the remaining FFT allocation may be transferred to the General Category (GC) and, if such transfer occurs, the GC fishery shall be opened until that allocation is estimated to be harvested.
5. Floating fish trap allocation that has been transferred to the general category fishery may be transferred back to the floating fish trap fishery. Any allocation transferred back to the floating fish trap fishery shall not exceed the amount of the original transfer.

B. Floating Fish Traps

1. Floating fish trap operators must be permitted pursuant to the General Equipment Provisions, Part [6](#) of this Subchapter.
2. Allocation: During a single calendar year, the floating fish trap quota shall not be more than thirty-nine percent (39%) of the annual Rhode Island commercial quota.
3. Minimum size: Twenty-six inches (26")
4. Season: April 1 through December 31
5. Possession limit: Unlimited. Once seventy percent (70%) of the seasonal allocation is projected to be harvested, the possession limit shall be five hundred (500) pounds per floating fish trap licensee per calendar day.
6. Reporting: All floating fish trap operators shall keep daily records of striped bass landings and report landings to SAFIS every Monday, Wednesday, and Friday, of every week that the trap is in operation.
7. If the floating fish trap operators are found to be out of compliance with the reporting requirements, the operators will be notified, and default to following program:
 - a. April 1 through December 31: One hundred percent (100%) of the floating fish trap quota shall be available during this sub-period. Once seventy percent (70%) of the seasonal allocation is projected to be harvested, the possession limit shall be five hundred (500) pounds per floating fish trap licensee per calendar day.

C. Gill net Prohibition for Striped Bass: No person shall take or possess any striped bass while gillnetting, or while hauling a gillnet.

D. Hybrid or Cultured Striped Bass

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.

2. Packages, containers, and each fish or fish product containing aquaculture products shall be tagged or labeled with a uniform series of fourteen (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

3. Each fish or fish product shall have affixed to it a tag bearing the same information listed in § 3.11.2(D)(2) of this Part.
 4. The sale of this product shall be accompanied by a receipt showing:
 - a. The 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.
 5. Fish shipped in the round and filleted by the seller, shall have the tag removed and wrapped in with the fillets when sold.
 6. The consignee of each subsequent sale shall retain a copy of the bill of lading or similar accountable document for one (1) year, and make it available to the Department upon request.
- E. Commercial Striped Bass Tags: Each individual striped bass shall be immediately marked with tags available from DEM. No striped bass may be sold unless it has been properly identified with such tag. DEM may designate tagging agents as appropriate. All designated tagging agents shall keep and maintain the required forms and reports specified by DEM. All tag reports and unused tags must be returned to DEM by January 1 of the following year. Failure to return reports and unused tags may result in the tagging agent becoming ineligible to receive striped bass tags in the future.

3.12 Summer Flounder

3.12.1 Recreational

- A. Minimum size: Eighteen inches (18")
- B. Season: May 3 through December 31
- C. Possession limit: Four (4) fish per person per day
- D. Special shore angling sites:
 - 1. Special shore angling site locations: India Point Park, Providence; Conimicut Park, Warwick; Rocky Point, Warwick; Stone Bridge, Tiverton; East and West Walls (Harbor of Refuge); Narragansett; Fort Wetherill, Jamestown; and Fort Adams, Newport
 - 2. Minimum size: Seventeen inches (17"). This applies to only two (2) fish of the allowed total possession limit. The minimum size of two (2) of the four (4) fish may be seventeen inches (17"). The minimum size for the remaining two (2) fish shall be eighteen inches (18").
 - 3. Season: May 3 through December 31
 - 4. Possession Limit: Four (4) fish per person per day. ~~The minimum size of two (2) of the four (4) fish may be seventeen inches (17"). The minimum size for the remaining two (2) fish shall be eighteen inches (18").~~

3.12.2 Commercial

- A. Minimum size: Fourteen inches (14")
- B. Season, allocation, and possession limit:
 - 1. January 1 through April 30:
 - a. Allocation: Fifty-four percent (54%) of the annual quota
 - ~~b. Possession limit between January 1 and the start of the Winter sub-period of the Aggregate Landing Program:~~
 - ~~(1)~~b. Vessels that possess a valid Rhode Island Summer Flounder Exemption Certificate: One hundred (100) pounds per vessel per calendar day
 - ~~(2)~~c. Vessels that do not possess a valid Summer Flounder Exemption Certificate: One hundred (100) pounds per vessel per calendar day
 - ~~c. Possession limit during the Aggregate Landing Program:~~

- ~~(1) Vessels not permitted in the Aggregate Landing Program but which possess a valid Summer Flounder Exemption Certificate: One hundred (100) pounds per vessel per calendar day~~
- ~~(2) Vessels that do not possess a valid Summer Flounder Exemption Certificate: One hundred (100) pounds per vessel per calendar day~~
- ~~(3) Aggregate Landing Program: Four thousand (4,000) pounds per vessel per bi-week. The bi-weekly periods shall be specified in the Aggregate Landing Permit.~~
- ~~(4) The Aggregate Landing Program will terminate when ninety percent (90%) of the Winter sub-period quota has been harvested and the possession limit shall be one hundred (100) pounds per vessel per calendar day.~~

2. May 1 through September 15:

- a. Allocation: Thirty-five percent (35%) of the annual quota
- b. Possession limit:
 - (1) Vessels that possess a valid Summer Flounder Exemption Certificate: Three hundred (300) pounds per vessel per calendar day
 - (2) Vessels that do not possess a valid Summer Flounder Exemption Certificate: Two hundred (200) pounds per vessel per calendar day

3. September 16 through December 31:

- a. Allocation: Eleven percent (11%) of the annual quota
- b. Possession limit:
 - (1) Vessels that possess a valid Summer Flounder Exemption Certificate: Five hundred (500) pounds per vessel per calendar day
 - (2) Vessels that do not possess a valid Summer Flounder Exemption Certificate: Two hundred (200) pounds per vessel per calendar day

~~C. Aggregate Landing Program:~~

1. ~~Applicability: Authorizes the aggregate possession limit of summer flounder during the Aggregate Landing Program season.~~
2. ~~Permit required: A permit issued from the Director is required to participate in the Aggregate Landing Program. Permit applications shall be completed on forms as prescribed by the Director. Applications not completed in their entirety shall not be considered.~~
3. ~~Eligibility: An applicant vessel shall demonstrate the following:~~
 - a. ~~The vessel, if harvesting summer flounder from Federal waters, holds a valid Federal Summer Flounder Moratorium Permit and Rhode Island Summer Flounder Exemption Certificate issued pursuant to Part 14 of this Subchapter, Summer Flounder Exemption Certificate Program;~~
 - b. ~~The vessel's operator, if harvesting exclusively in State waters, holds a valid Rhode Island Commercial Fishing License to harvest or land summer flounder and possesses a valid Summer Flounder Exemption Certificate;~~
 - c. ~~The vessel's operator has not been assessed a criminal or administrative penalty for violations of State or Federal commercial fishing Regulations or laws within the past three (3) years.~~
 - d. ~~Applicants must be in compliance with commercial fishing data reporting requirements pursuant to Part 2 of this Subchapter, Commercial and Recreational Saltwater Fishing Licensing Regulations.~~
4. ~~Season: Begins on the Sunday of the first full week in January through April 30, or until ninety percent (90%) of the Winter sub-period quota has been harvested as determined by the DEM~~
5. ~~Permit conditions:~~
 - a. ~~Participants must maintain compliance with commercial fishing data reporting requirements pursuant to Part 2 of this Subchapter, Commercial and Recreational Saltwater Fishing Licensing Regulations.~~
 - b. ~~Permits are non-transferable. Only vessels authorized by the Director may participate in the pilot program.~~
 - c. ~~Permits are valid only for the calendar year issued.~~
6. ~~Penalties for non-compliance:~~

- ~~a. In addition to the penalties for non-compliance specified in § 1.11 of this Subchapter, non-compliance with the provisions of these Regulations or the permit agreement shall subject both the owner and the operator to revocation of enrollment and participation in the commercial fisheries for remainder of the sub-period or the subsequent sub-period. If for any reason a sub-period does not exist by Regulation, the privilege of the owner(s) and operator(s) to commercially harvest fish shall be suspended for the same calendar time period as described in the current sub-period upon adjudication.~~
- ~~b. The Director may also revoke, in writing, the authorization to participate in this Program, should the Director determine that such program participant has been assessed a criminal or administrative penalty for violations of State commercial fishing Regulations or for violations of Federal commercial fishing Regulations or laws, within the past three (3) years.~~

DC. Minimum mesh size – otter trawl:

1. Owners or operators of otter trawl vessels possessing one hundred (100) pounds or more of summer flounder per day from May 1 through October 31; or two hundred (200) pounds or more of summer flounder per trip from November 1 through April 30, must fish with nets or combinations of nets that have a minimum mesh size of five and one half inches (5 1/2") diamond, or six inches (6") square mesh applied throughout the body, extension(s) and cod end portion of the net.
2. Vessels possessing trawl devices while harvesting summer flounder in excess of the possession limits specified herein may have nets onboard the vessel that have a mesh size less than the minimum size specified in the Regulations provided that the net is stowed and is not available for immediate use.

ED. Summer flounder may be landed between the hours of 6:00 A.M. to 8:00 P.M. only;

FE. Control Date: A control date of December 31, 2010, is established for the commercial summer flounder fishery in Rhode Island. This control date has been established by the Department for potential future use in establishing eligibility criteria for future access to the fishery.

3.13 Tautog

3.13.1 Recreational

A. Minimum size: Sixteen inches (16")

- B. Maximum size: One (1) fish only may be greater than twenty-one inches (21”).
- C. Season and possession limit:
 - 1. January 1 through March 31: Closed
 - 2. April 1 through May 31: Three (3) fish per person per calendar day
 - 3. June 1 through July 31: Closed
 - 4. August 1 through October 14: Three (3) fish per person per calendar day
 - 5. October 15 through December 31: Five (5) fish per person per calendar day
 - 6. Maximum per vessel possession limit: The possession limit shall be per person per calendar day, as stated above, with a maximum of ten (10) fish per vessel per calendar day.
 - 7. Licensed Party and Charter vessels season and possession limit:
 - a. January 1 through March 31: Closed
 - b. April 1 through May 31: Three (3) fish per person per calendar day
 - c. June 1 through July 31: Closed
 - d. August 1 through October 14: Three (3) fish per person per calendar day
 - e. October 15 through December 31: Five (5) fish per person per calendar day
 - f. Licensed Party/charter vessels are not subject to the ten (10) fish per vessel per calendar day restriction.

3.13.2 Commercial

- A. Minimum size: Sixteen inches (16”)
- B. Season, allocation, and possession limit:
 - 1. January 1 through March 30: Closed
 - 2. April 1 through May 31:
 - a. Allocation: Forty-two and one-half percent (42.5%) of the annual quota

- b. Possession limit: Ten (10) fish per vessel per day
3. June 1 through July 31: Closed
4. August 1 through September 15:
 - a. Allocation: Fifteen percent (15%) of the annual quota
 - b. Possession limit: Ten (10) fish per vessel per day
5. September 16 through October 14: Closed
6. October 15 through December 31:
 - a. Allocation: Forty-two and one-half percent (42.5%) of the annual quota
 - b. Possession limit: Ten (10) fish per vessel per day

C. Commercial tautog tagging

1. No tautog shall be sold, purchased, bartered, or traded in Rhode Island unless a tautog tag issued by the Director has been affixed to the left opercula bone with the tag number displayed.
2. All tautog harvested and landed in Rhode Island must be tagged prior to landing.
3. Eligibility: Tags shall be available only to Rhode Island commercially licensed fishermen authorized to harvest and/or land tautog.
4. No person shall transfer tautog tags between individuals or fish.
5. Tags are valid for one (1) calendar year.
6. All unused tags shall be returned to DMF by February 15 of the following year accompanied by the tag reporting form with the disposition of all tags (used, returned, broken, or lost) recorded. Failure to return tags and reports may result in the harvester's inability to participate in the commercial tautog fishery in the future.
7. No person shall reuse, counterfeit, alter, or modify any tautog tag, or possess, use, or attempt to use any counterfeit, altered or modified tags. Any person found in violation may be prohibited from participating in the commercial tautog fishery in the future.
8. Tautog must remain tagged until they reach the final consumer. Processed or fileted tautog shall be packed with the tag and available for inspection, with tags retained until all process or fileted tautog are sold.

9. This section shall become effective on January 1, 2020.

3.14 American Eel

3.14.1 Recreational

- A. Minimum size: Nine inches (9")
- B. Season: January 1 through December 31
- C. Possession limit: Twenty-five (25) fish per angler per day
- D. Licensed Party and Charter vessel season and possession limit:
 - 1. Season: January 1 through December 31
 - 2. Possession limit: Fifty (50) fish per angler per day for the licensed captain and any employed crew member; and twenty-five (25) fish per angler per day for any paying customer

3.14.2 Commercial

- A. Minimum size: Nine inches (9")
- B. Season: January 1 through December 31:
 - 1. Closed season: September 1 through December 31 for any gear type other than baited traps/pots or spears
- C. Possession limit: Unlimited
- D. Commercial eel pot restrictions: Eel pots shall have a minimum mesh size of one half inch ($\frac{1}{2}$ ") by one half inch ($\frac{1}{2}$ ").

3.15 American Plaice

3.15.1 Recreational

- A. Minimum size: Fourteen inches (14")
- B. Fishing year: May 1 through April 30
- C. Possession limit: Unlimited

3.15.2 Commercial

- A. Minimum size: Twelve inches (12")
- B. Fishing year: May 1 through April 30

C. Possession limit:

1. There is no commercial possession limit for american plaice provided the vessel is fishing in State waters and does not have a Federal permit authorizing the commercial harvest of american plaice.
2. Vessels in possession of a Federal permit authorizing the commercial harvest of american plaice in Federal waters may harvest american plaice in State waters in the amount equal to the Federal Regulations.

3.16 American Shad

The harvest, landing, or possession of american shad in the marine waters of Rhode Island is prohibited.

3.17 Atlantic Herring

3.17.1 Commercial

- A. Minimum size: No minimum size
- B. Season: January 1 through December 31
- C. Possession limit: Unlimited
- D. River Herring Bycatch Allowance: Vessels possessing a Federal atlantic herring permit fishing in Federal waters may transit Rhode Island State waters and make a landing in possession of alewives or blueback herring provided that the count of the combined river herring is five percent (5%) or less than the count of atlantic herring onboard the vessel.
 1. The percentage of river herring in the catch will be assessed by sorting and counting a batch of fish taken from the catch of atlantic herring on board the vessel or being landed by the vessel. This determination as to the percentage of river herring in the catch shall be accomplished by filling a container as defined herein, with a portion of the catch and examining the contents of said container. The percentage of river herring in said container shall be deemed to be representative of the percentage of river herring in the catch as a whole for purposes of a determination as to whether a vessel is in compliance with the requirements of this section.
 2. A batch of fish is defined as all fish in a separate container.
 3. A container is defined as any box, tote, bag, bucket or other receptacle capable of retaining at least twenty-five (25) gallons of loose fish which may be separated from the total catch of atlantic herring being landed.

- E. Atlantic Herring Processing: No person may process atlantic herring for purposes other than human consumption. Direct mealing of atlantic herring is prohibited.
- F. Vessel restrictions: No vessel harvesting atlantic herring in the atlantic coast herring fishery shall exceed one hundred sixty-five feet (165') in length overall, and three thousand (3,000) horsepower.

3.18 Atlantic Salmon

The harvest, landing, or possession of atlantic salmon in the marine waters of Rhode Island is prohibited.

3.19 Atlantic Sturgeon

The harvest, landing, or possession of atlantic sturgeon in the marine waters of Rhode Island is prohibited.

3.20 Bluefish

3.20.1 Recreational

- A. Minimum size: No minimum size
- B. Season: January 1 through December 31
- C. Possession limit: Three (3) fish per person per calendar day
 - 1. Licensed Party and Charter vessels possession limit: Five (5) fish per person per calendar day

3.20.2 Commercial

- A. Minimum size: Eighteen inches (18")
- B. Season and possession limit:
 - 1. January 1 through April 30: One thousand (1,000) pounds per vessel per bi-week
 - 2. May 1 through November 15: Six thousand (6,000) pounds per vessel per week
 - 3. November 16 through December 31: Five hundred (500) pounds per vessel per week

3.21 Coastal Sharks

3.21.1 Recreational

- A. Prohibited species. Taking or possessing any of the following shark species is prohibited: sandbar, silky, sand tiger, bigeye sand tiger, whale, basking, white, dusky, bignose, galapagos, night, reef, narrowtooth, caribbean sharpnose, smalltail, atlantic angel, longfin mako, bigeye thresher, sharpnose sevengill, bluntnose sixgill, and bigeye sixgill.
- B. Shortfin Mako: The taking or possession of shortfin mako sharks is prohibited.
- C. 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 person fishing recreationally shall fillet a shark at sea or otherwise cut a shark into pieces at sea.
- D. Minimum size:
1. Smooth dogfish, atlantic sharpnose, finetooth, blacknose, and bonnethead shark: No minimum size
 2. Tiger, blacktip, spinner, bull, lemon, nurse, porbeagle, common thresher, oceanic whitetip, and blue shark: Minimum fork length is fifty-four inches (54”).
 3. Scalloped hammerhead, smooth hammerhead, and great hammerhead shark: Minimum fork length is seventy-eight inches (78”).
- E. Shore-based possession limit:
1. One (1) shark per person per calendar day, with one (1) additional bonnethead and one (1) additional atlantic sharpnose shark per person per calendar day
 2. Smoothhound sharks: Unlimited
- F. Vessel-based possession limits:
1. One (1) shark per vessel per calendar day, or per trip per calendar day, whichever is less, regardless of the number of people on board the vessel, with one (1) additional bonnethead and one (1) additional atlantic sharpnose shark per vessel per calendar day, or per trip per calendar day, whichever is less
 2. Smoothhound sharks: Unlimited
 3. Sharks that are transported by vessel are considered “boat assisted” and “vessel-based” regardless of how or where they were caught.

G. Authorized 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 (2) gangions or hooks are attached; retrieved by hand, not by mechanical means; and attached to, or in contact with, a vessel.

1. Any vessel using rod and reel, must adhere to the following:
 - a. Use corrodible circle hooks, except when fishing with flies or artificial lures; and
 - b. Maximize gear removal, as safely as possible, when releasing sharks.

3.21.2 Commercial

- A. Commercial species groups: Coastal sharks are grouped into commercial species groups as follows:
1. Prohibited: sand tiger, bigeye sandtiger, whale, basking, white, dusky, bignose, galapagos, night, reef, narrowtooth, caribbean sharpnose, smalltail, atlantic angel, longfin mako, bigeye thresher, sharpnose sevengill, bluntnose sixgill, blacknose, and bigeye sixgill shark
 2. Research: Sandbar shark
 3. Smoothhound: Smooth dogfish and florida smoothhound shark
 4. Non-Blacknose Small Coastal: Atlantic sharpnose, finetooth, and bonnethead shark
 5. Blacknose: Blacknose shark
 6. Aggregated Large Coastal: Silky, tiger, blacktip, spinner, bull, lemon, and nurse shark
 7. Hammerhead: Scalloped hammerhead, great hammerhead, and smooth hammerhead shark
 8. Pelagic: Shortfin mako, porbeagle, common thresher, oceanic whitetip, and blue shark
- B. Prohibited species: Taking or possessing any of the species of sharks in the Prohibited and Research species groups is prohibited.
- C. Shortfin Mako: The taking or possession of shortfin mako sharks is prohibited.
- D. Fishing year: January 1 through December 31
- E. Quota specification:

1. Smoothhound sharks: A total annual statewide quota will be established for the State by the ASMFC and/or NOAA Fisheries.
 2. Species groups other than smoothhound sharks will be established annually by the ASMFC and/or NOAA Fisheries.
- F. Season: Seasonal periods for commercial shark fisheries may be established annually either through NOAA Fisheries, ASMFC, or DEM.
- G. Possession limit:
1. Smoothhound, non-blacknose small coastal, and pelagic shark species groups: Unlimited
 2. Aggregated large coastal and hammerhead species groups: Twenty-five (25) sharks per vessel per day, adjusting to between fifty-five (55) and zero (0) sharks per vessel per day during the fishing year as determined by NOAA Fisheries
 3. It shall be unlawful for any person to possess any species of shark in State waters when NOAA Fisheries prohibits the possession of that species in Federal waters.
- H. 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 a valid State collector's permit obtained from the Director. Any person so authorized shall:
1. Report to the Director within thirty (30) days of possession the species identification, length, weight, date, and location where caught by latitude and longitude coordinates, and the gear used; and
 2. For each shark taken for live display, the holder of the permit shall also report to the Director annually by December 31 for the life of the shark. The report shall include all of the information specified in the original report to the Director pertaining to the sharks, as well as updated information on the length and weight of the shark.
- I. Authorized sale: No person shall sell any shark species to a person or dealer who does not possess a Rhode Island Commercial Dealer License, and a Federal Commercial Shark Dealer Permit issued by the NOAA Fisheries.
- J. Authorized commercial gear: No person shall take or possess sharks using any method other than the following gear types:
1. Rod and Reel. Any vessel using Rod and Reel, must adhere to the following:

- a. Use corrodible circle hooks; and
 - b. Maximize gear removal, as safely as possible, when releasing sharks.
 2. Handlines, which are defined as a mainline to which no more than two (2) 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;
 3. Small mesh gillnets which are defined as having a stretch mesh size smaller than five inches (5");
 4. Large mesh gillnets which are defined as having a stretch mesh size equal to or greater than five inches (5"). Any vessel using large-mesh gillnets, must use nets that are shorter than two and one half (2 1/2) kilometers;
 5. Trawl nets;
 6. Shortlines which are defined as fishing lines containing fifty (50) or fewer hooks and measuring less than five hundred (500) yards in length. A maximum of two (2) shortlines shall be allowed per vessel. Any vessel using a shortline shall adhere to the following:
 - a. Use corrodible circle hooks; and
 - b. 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
 - c. All captains and vessel owners must be 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 Fisheries.
 7. Pound nets/fish traps;
 8. Weirs.
- K. 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 smoothhound, 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.

1. Commercial fishermen may eviscerate and remove the head and all shark fins of smooth dogfish while at sea provided smooth dogfish make up at least twenty-five percent (25%), by weight, of total catch on board at the time of landing. Trips that do not meet the twenty-five percent (25%) catch composition requirement can land smooth dogfish, but the fins must remain naturally attached to the carcass. If fins are removed, the total wet weight of the shark fins may not exceed twelve percent (12%) of the total dressed weight of smoothhound carcasses landed or found on board a vessel. Commercial fishermen may retain other sharks on board provided the fins of other shark species remain naturally attached to the carcass through offloading.

3.22 Cod

3.22.1 Recreational

- A. Minimum size: Twenty-two inches (22")
- B. Maximum size: Twenty-eight inches (28")
- C. Season and possession limit:
 1. January 1 through April 30: Five (5) fish per person per calendar day
 2. May 1 through July 31: Closed
 3. August 1 through December 31: Five (5) fish per person per calendar day

3.22.2 Commercial

- A. Minimum size: Nineteen inches (19")
- B. Fishing year: May 1 through April 30
- C. Possession limit:
 1. One thousand (1,000) pounds per vessel per calendar day for any vessel fishing in State waters. The possession limit may be modified on the basis of a Rhode Island State water cod quota as set by DEM, which shall be equal to one percent (1%) of the Federal Georges Bank cod annual catch limit (ACL) for the given fishing year. When ninety percent (90%) of the State water quota has been harvested as determined by the DEM, the possession limit will decrease to seventy-five (75) pounds of cod per vessel per calendar day for the remainder of the fishing year.
 2. Vessels in possession of a Federal permit authorizing the commercial harvest of cod in Federal waters may harvest, possess, or land cod in State waters in the amount equal to the Federal Regulations

3.23 Haddock

3.23.1 Recreational

- A. Minimum size: Eighteen inches (18")
- B. Fishing year: May 1 through April 30
- C. Possession limit: Unlimited

3.23.2 Commercial

- A. Minimum size: Sixteen inches (16")
- B. Fishing year: May 1 through April 30
- C. Possession limit:
 - 1. There is no commercial possession limit for haddock provided the vessel is fishing in State waters and does not have a Federal permit authorizing the commercial harvest of haddock.
 - 2. Vessels in possession of a Federal permit authorizing the commercial harvest of haddock in Federal waters may harvest, possess, or land haddock in State waters in the amount equal to the Federal Regulations.

3.24 Menhaden

3.24.1 Recreational

- A. Minimum size: No minimum size
- B. Season: January 1 through December 31
- C. Possession limit:
 - 1. Less than or equal to four inches (4"): Unlimited
 - 2. Greater than four inches (4"): Two hundred (200) fish per person per day

3.24.2 Commercial

- A. Menhaden Management Area:
 - 1. Opening and closure of fishery: Weekly Possession limit: One hundred twenty thousand (120,000) pounds per vessel per week provided that the State's quota has not been exhausted or if the Episodic Event Set Aside Program has been enacted in Rhode Island.

2. Daily Possession limit:

~~a. Fishery opening possession limit:~~

~~(1)a.~~ Biomass Floor: ~~On an annual basis in the spring, the DEM shall conduct regular estimates of the standing stock of menhaden utilizing approved scientific monitoring methods. On the basis of those estimates, DEM shall open the commercial fishery at an initial possession limit of one hundred twenty thousand (120,000) pounds per vessel per calendar day w~~When the ~~estimated~~ weekly standing stock ~~as estimated by DEM~~ reaches two million (2,000,000) pounds, the daily possession limit will be one hundred twenty thousand (120,000) pounds per vessel per day.

~~b. Fishery closure:~~

~~(1)b.~~ Biomass Ceiling: When fifty percent (50%) of the estimated standing stock of menhaden, above the minimum threshold amount of one million five hundred thousand (1,500,000) pounds, is harvested, the DEM shall close the menhaden fishery until further notice.

~~(2)c.~~ If at any time the stock estimate drops below one million five hundred thousand (1,500,000) pounds, the DEM shall close the commercial fishery and the incidental catch fishery will be in effect until further notice.

ed. Fall opening in the Menhaden Management Area:

(1) Beginning September 1, the area south of a line extending from the Jamestown and Newport Bridges, and the area south of a line extending from Fogland Point to Sandy Point in the Sakonnet River, to the southern extent of the Management Area, will be open to the harvest of menhaden by purse seine provided that the State's quota has not been exhausted or if the Episodic Event Set Aside Program has been enacted in Rhode Island.

(2) Possession limit: Twenty-five thousand (25,000) pounds per vessel per day

2. Commercial vessel restrictions:

a. This section does not apply to small scale fisheries as defined in § 3.24.2(D)(1)(b) of this Part, or floating fish traps.

b. The use of purse seines shall be permitted only in accordance with the following terms and conditions:

- (1) All nets shall be less than one hundred (100) fathoms (six hundred feet (600')) in length and less than fifteen (15) fathoms (ninety feet (90')) in depth.
 - (2) All nets shall be marked with fluorescent-colored float buoys, distinguishable from the other float buoys on the net, at intervals of fifty feet (50').
 - (3) 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 (DLE). 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.
- c. The possession or taking of menhaden by a fishing vessel engaged in the commercial menhaden fishery is prohibited in the following areas:
- (1) Providence River: Described as the waters north of a line extending from Rocky Point to Conimicut Light in the city of Warwick, and further extending to Nayatt Point in the town of Barrington.
 - (2) Greenwich Bay: Described as the waters of Greenwich Bay west and north of a line extending from the flagpole on Warwick Point to Sandy Point in the city of Warwick.
- d. The possession or taking of menhaden by a fishing vessel engaged in the commercial menhaden fishery is prohibited on any Saturday, Sunday, official State holiday, or prior to sunrise or following sunset.
- e. Fish storage capacity: A fishing vessel engaged in the commercial menhaden fishery may not have a useable fish storage capacity greater than one hundred twenty thousand (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. Such certification must be kept aboard the vessel at all times. Vessels must either be certified as having a useable storage capacity of one hundred twenty thousand (120,000) pounds or less, or for vessels with a fish storage capacity greater than one hundred twenty thousand (120,000) pounds the excess capacity is

rendered unusable in accordance with the specifications set forth in the assessment.

B. Possession of Menhaden in Rhode Island under State Quota Program:

1. Possession limit: One hundred twenty thousand (120,000) pounds per vessel per day
2. Once the quota has been reached, the fishery will close for directed fisheries, including but not limited to purse seine operations, and the incidental catch fishery will be in effect.
3. All commercial menhaden operations conducted in the Management Area, prior to and after the State's quota has been reached, are subject to the provisions of § 3.22.2(A) of this Part.
4. The transiting provision in § [1.9\(A\)\(2\)](#) of this Subchapter does not apply to the commercial menhaden fishery. Any vessel transiting State waters must abide by the current State possession limit.

C. Episodic Event Set Aside Program:

1. After the State's quota has been reached, if Rhode Island is approved to participate in the Episodic Event Set Aside Program for menhaden, as established by the ASMFC, the possession limit for menhaden will be one hundred twenty thousand (120,000) pounds per vessel per day, until the Set Aside quota has been exhausted, as determined by the ASMFC and/or the DEM, at which time the program will end and the directed fishery will close. Vessels that target and land menhaden in Rhode Island under this program must harvest only from Rhode Island waters and, if operating in the Management Area, must adhere to all the provisions as specified in § 3.24.2(A) of this Part.
2. The Episodic Event Set Aside Program will end on October 31, or when the Set Aside quota has been harvested, whichever first occurs.

D. Incidental Catch Fishery

1. ~~Upon closure of the commercial menhaden fishery~~ After the State's quota has been reached, an incidental catch fishery will be in effect as follows:
 - a. Possession limit:
 - (1) Six thousand (6,000) pounds per vessel per day for non-directed and small-scale gears

- (2) Twelve thousand (12,000) pounds per vessel per day for two (2) commercially licensed individuals harvesting from the same vessel, fishing stationary multi-species gear

b. Gear Types:

- (1) Non-directed: Anchored/stake gillnets, trawls, fyke nets, and floating fish traps
- (2) Small-scale: Cast nets, pots, hook and line, hand lines, ~~trammel nets~~, and bait nets
- (3) Stationary multi-species: Anchored/stake gillnets, floating fish traps, and fyke nets

E. Commercial Vessel Reporting Requirements

1. This section does not apply to small scale fisheries as defined in § 3.24.2(D)(1)(b) of this Part, or floating fish traps.
2. Any fisher intending to engage in the commercial menhaden fishery in the Management Area shall notify the DLE at (401) 222-3070 prior to taking or possessing menhaden. 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.
3. Each person engaging in the commercial menhaden fishery shall contact the DEM at (401) 423-1940 at the end of each day to report the area fished and the amount of menhaden in possession by the fisher in pounds.

F. 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.

G. No person may transfer or attempt to transfer at sea, from one (1) vessel to another, any finfish identified in these Regulations.

H. Possession limit compliance: It shall be unlawful for any commercial menhaden operation to land more than one (1) possession limit per day.

3.25 Monkfish

3.25.1 Recreational

A. Minimum size: Seventeen inches (17") total length or eleven inches (11") tail length

- B. Possession limit: Fifty (50) pounds tail weight, or one hundred sixty-six (166) pounds whole weight per vessel per calendar day. Whole weight is defined as the weight of monkfish that are gutted (i.e. stomach, liver, and other entrails removed) and have the head and tail attached.

3.25.2 Commercial

- A. Minimum size: Seventeen inches (17") total length or eleven inches (11") tail length
- B. Fishing year: May 1 through April 30
- C. Possession limit:
 - 1. Non-federally permitted Rhode Island licensed vessel: Four thousand nine hundred (4,900) pounds tail weight or fourteen thousand two hundred fifty-nine (14,259) pounds whole weight per vessel per week. Whole weight is defined as the weight of monkfish that are gutted (i.e. stomach, liver, and other entrails removed) and have the head and tail attached. In SAFIS landing monkfish in the "whole" is reported using the grade "gutted, head on, tail on."
 - a. The possession of monkfish livers may not exceed the number of gutted-fish and tails combined.
 - b. The possession of monkfish heads may not exceed the number of gutted-head-off-fish and tails combined.
 - 2. The possession limit may be modified on the basis of a Rhode Island State water monkfish quota as set by DEM, which shall be equal to three percent (3%) of the Federal Southern Management Area (SMA) Total Allowable Landings (TAL) as specified by NOAA Fisheries. When two percent (2%) of the SMA TAL has been harvested as determined by the DEM, the possession limit will decrease to fifty (50) pounds tail weight or one hundred sixty-six (166) pounds whole weight per vessel per calendar day for the remainder of the fishing year.
- D. Vessels in possession of a Federal permit authorizing the harvest of monkfish may harvest monkfish in State waters if and only if they are operating during a previously and properly declared Day At Sea (DAS); in such instances, such vessels may harvest monkfish in the amount authorized to be possessed pursuant to Federal Regulations.

3.26 Pollock

3.26.1 Recreational

- A. Minimum size: Nineteen inches (19")

- B. Fishing year: May 1 through April 30
- C. Possession limit: Unlimited

3.26.2 Commercial

- A. Minimum size: Nineteen inches (19")
- B. Fishing year: May 1 through April 30
- C. Possession limit:
 - 1. There is no commercial possession limit for pollock provided the vessel is fishing in State waters and does not have a Federal permit authorizing the commercial harvest of pollock.
 - 2. Vessels in possession of a Federal permit authorizing the commercial harvest of pollock in Federal waters may harvest, possess, or land pollock in State waters in the amount equal to the Federal Regulations.

3.27 River Herring

The harvest, landing, or possession of river herring in the marine waters of Rhode Island is prohibited.

3.28 Skate

3.28.1 Recreational

Possession limit: Ten (10) fish per person per day

3.28.2 Commercial

- A. Fishing year: May 1 through April 30
- B. State-waters skate wing fishery: Shall be defined as skate harvested, possessed, or landed by a vessel:
 - 1. Fishing in State waters, not on a previously declared DAS, and without an active Federal open-access skate permit; and
 - 2. For food for human consumption with a designated Atlantic Coastal Cooperative Statistics Program (ACCSP) Disposition Code 001 = Food.
 - 3. Minimum size: No minimum size
 - 4. Possession limit: Thirty-five thousand (35,000) pounds per vessel per week for wings only; or seventy-nine thousand four hundred fifty (79,450) pounds per vessel per week for whole skate

- a. Barndoor skate shall not comprise more than twenty-five percent (25%) of total skate wing by weight per vessel per day at the time of landing.
 - b. Barndoor skate shall be kept separate from other species harvested.
 - c. When in possession of barndoor skate, vessels are prohibited from discarding any skate species that has been winged.
- C. Skate bait fishery: Shall be defined as skate harvested, possessed, or landed by a vessel:
1. Fishing in State waters, not on a previously declared DAS, without an active Federal open-access skate permit, and without a Federal skate bait Letter of Authorization (LOA); and
 2. For use as bait with a designated ACCSP Disposition Code 008 = Bait.
 3. Maximum length: Whole skates must measure less than twenty-three inches (23") total length.
 4. Season and possession limit:
 - a. May 1 through July 31: Twenty-five thousand (25,000) pounds whole skate per vessel per day. When NOAA Fisheries determines that ninety percent (90%) of a bait skate TAL for sub-period I is landed, the possession limit will be reduced to an incidental catch limit of eight thousand (8,000) pounds whole skate.
 - b. August 1 through October 31: Twenty-five thousand (25,000) pounds whole skate per vessel per day. When NOAA Fisheries determines that ninety percent (90%) of a bait skate TAL for sub-period II is landed, the possession limit will be reduced to an incidental catch limit of eight thousand (8,000) pounds whole skate.
 - c. November 1 through April 30: Twenty-five thousand (25,000) pounds whole skate per vessel per day. When NOAA Fisheries determines that eighty percent (80%) of a bait skate TAL for sub-period III is landed, the possession limit will be reduced to an incidental catch limit of eight thousand (8,000) pounds whole skate.
 - d. Possession limit adjustments: Following the implementation of the incidental catch limit, additional adjustments may be enacted, in accordance with actions by NOAA Fisheries.
 - (1) To ensure the skate bait fishery does not exceed its seasonal or annual TAL, the fishery will close when NOAA

determines that one hundred percent (100%) of the skate bait TAL for a season is to be harvested.

- (2) To achieve the seasonal or annual TAL, incidental possession limits may be lifted, reinstating the standard seasonal possession limit.

3.28.3 Prohibited Species

The harvest, landing, or possession of thorny skate in the marine waters of Rhode Island is prohibited.

3.29 Spiny Dogfish

3.29.1 Commercial

- A. Seasons, allocations, and possession limit: Rhode Island is currently designated as a State that is part of the Northern region. A Northern region possession limit and quota for spiny dogfish will be established annually by the ASMFC. The Northern region quota for spiny dogfish shall be the most recent allocation by the ASMFC, which is currently set at fifty-eight percent (58%) of the coastwide quota.
 1. Season: May 1 through April 30
 2. Possession limit: Seven thousand five hundred (7,500) pounds per vessel per calendar day. When notified that the quota in the Northern region has been harvested, or projected to be harvested, as determined by the NOAA Fisheries or the ASMFC, the DEM shall close the fishery for the remainder of the designated period.
 3. DEM 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, and may make adjustments as deemed necessary to comply with said agreements. DEM will consult with the Rhode Island State water spiny dogfish fishers prior to negotiating the subject agreements.
- B. 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 is prohibited in State waters. In addition, removing any fin of spiny dogfish at sea is prohibited (including the tail). All spiny dogfish must be landed with fins-naturally-attached to the corresponding carcass. Gutting fish at sea is permitted, so long as the fins remain attached by a portion of uncut skin.

3.30 Yellowtail Flounder

3.30.1 Recreational

- A. Minimum size: Thirteen inches (13")
- B. Fishing year: May 1 through April 30
- C. Possession Limit: Unlimited

3.30.2 Commercial

- A. Minimum size: Twelve inches (12")
- B. Fishing year: May 1 through April 30
- C. Possession Limit:
 - 1. There is no commercial possession limit for yellowtail flounder provided the vessel is fishing in State waters and does not have a Federal permit authorizing the commercial harvest of yellowtail flounder.
 - 2. Vessels in possession of a Federal permit authorizing the commercial harvest of yellowtail flounder in Federal waters may harvest, possess, or land yellowtail flounder in State waters in the amount equal to the Federal Regulations.

3.31 Weakfish

3.31.1 Recreational

- A. Minimum size: Sixteen inches (16")
- B. Season: January 1 through December 31
- C. Possession limit: One (1) fish per person per calendar day

3.31.2 Commercial

- A. Minimum size: Sixteen inches (16")
- B. Season and possession limit:
 - 1. June 1 through June 30: One hundred (100) pounds per vessel per calendar day
 - 2. August 7 through November 8: One hundred (100) pounds per vessel per calendar day
 - 3. At all other times, the possession limit is one hundred (100) pounds per vessel per calendar day as incidental catch only with an equivalent poundage of other species required to be on board the vessel. Provided,

however, that the commercial hook and line fishery is not permitted an incidental catch allowance.

- C. For directed trawl operations, cod end mesh size must be greater than or equal to four and one half inches (4 1/2") diamond or four inches (4") square.

3.32 Winter Flounder

3.32.1 Recreational

- A. Minimum size: Twelve inches (12")
- B. Season: March 1 through December 31
- C. Possession limit: Two (2) fish per person per calendar day in Rhode Island waters
- D. Closed Areas: The harvest or possession of winter flounder is prohibited in Narragansett Bay north of the Colregs line; Potter Pond; Point Judith Pond; and the Harbor of Refuge.

3.32.2 Commercial

- A. Minimum Size: Twelve inches (12")
- B. Season: January 1 through December 31
- C. Possession limit: Fifty (50) pounds per vessel per day
- D. Closed Areas: The harvest or possession of winter flounder is prohibited in Narragansett Bay north of the Colregs line; Potter Pond; Point Judith Pond and the Harbor of Refuge.
- E. Minimum mesh size:
 - 1. Bottom trawl nets: Six inches (6") diamond mesh or six and one half inches (6 1/2") square mesh applied throughout the body and extension of the net, or any combination thereof, and six and one half inches (6 1/2") diamond mesh or six and one half inches (6 1/2") square mesh applied to the cod end of the bottom trawl nets
 - 2. Gill nets: Six and one half inches (6 1/2") diamond mesh or six and one half inches (6 1/2") square mesh applied throughout the net. Vessels may utilize commercial fishing gear with mesh smaller than the sizes referenced in this section provided they do not possess any winter flounder.

- a. For vessels greater than forty-five feet (45') in length overall, a diamond mesh cod end is defined as the first fifty (50) meshes counting from the terminus of the net, and a square mesh cod end is defined as the first one hundred (100) bars counting from the terminus of the net.
 - b. For vessels forty-five feet (45') or less in length overall, a diamond mesh cod end is defined as the first twenty-five (25) meshes counting from the terminus of the net, and a square mesh cod end is defined as the first fifty (50) bars counting from the terminus of the net.
3. Vessels possessing trawl devices while harvesting winter flounder in excess of the possession limits specified herein may have nets onboard the vessel that have a mesh size less than the minimum size specified in the Regulations provided that the net is stowed and not available for immediate use.
- F. With the exception of the use of gillnets and fyke nets, the taking of winter flounder is prohibited from one (1) hour after sunset until one (1) hour before sunrise in the following areas:
1. In all coastal salt ponds, (with the exception of Point Judith Pond and the Harbor of Refuge where the harvest or possession of winter flounder is prohibited).
 2. In all coastal salt pond channels.
 3. In the Narrow River.
 4. In Little Narragansett Bay and the Pawcatuck River north and east of a line extending from Napatree Point to the western end of Sandy Point.
 5. Gillnets and fyke nets may not be hauled in these areas from one (1) hour after sunset to one (1) hour before sunrise.

3.33 Witch Flounder

3.33.1 Recreational

- A. Minimum size: Fourteen inches (14")
- B. Fishing year: May 1 through April 30
- C. Possession Limit: Unlimited

3.33.2 Commercial

- A. Minimum size: Thirteen inches (13")
- B. Fishing year: May 1 through April 30
- C. Possession limit:
 - 1. There is no commercial possession limit for witch flounder provided the vessel is fishing in State waters and does not have a Federal permit authorizing the commercial harvest of witch flounder.
 - 2. Vessels in possession of a Federal permit authorizing the commercial harvest of witch flounder in Federal waters may harvest, possess, or land witch flounder in State waters in the amount equal to the Federal Regulations.

3.34 Ocean Pout

The harvest, landing, or possession of ocean pout in the marine waters of Rhode Island is prohibited.

3.35 Atlantic Wolffish

The harvest, landing, or possession of atlantic wolffish in the marine waters of Rhode Island is prohibited.

3.36 Sand Lance

Possession limit: Two hundred (200) pounds per vessel per day

3.37 Cobia

3.37.1 Recreational

- A. Minimum size: Thirty seven inches (37")
- B. Season: January 1 through December 31
- C. Possession Limit: One (1) fish per vessel per day

3.37.2 Commercial

- A. Minimum size: Thirty seven inches (37")
- B. Season: January 1 through December 31
- C. Possession Limit: Two (2) fish per vessel per day

3.38 Spanish Mackerel

3.38.1 Recreational

- A. Minimum size: Fourteen inches (14"); must be landed with head and fins intact.
- B. Season: January 1 through December 31
- C. Possession Limit: Fifteen (15) fish per person per day

3.38.2 Commercial

- A. Minimum size: Fourteen inches (14")
- B. Season: March 1 through the last day of February
- C. Possession Limit: Three thousand five hundred (3,500) pounds per vessel per day.

Proposed Rule Summary

Part 23 – Aggregate Program for Summer Flounder and Black Sea Bass

1. Proposal #1 (Division proposal):

- a. Adopt new rule “*Part 23 - Aggregate Program for Summer Flounder and Black Sea Bass*” in conjunction with allowing the pilot program rules “*Part 12 – Research Pilot Aggregate Program for Summer flounder and Black sea bass*” to remain expired (i.e., do not extend term of pilot program into 2023).

Rationale: The pilot program has been in effect for 4 full years with adequate data obtained to determine to potential effects of a full program available to all eligible license holders.

b. Seasons:

- Winter I: Jan. 1 – April 30 (no change proposed)
- Summer/Fall: May 1 – Dec. 31 (no change proposed from pilot program)

c. Possession limits:

- Winter I:
 - Summer flounder: Four thousand (4,000) pounds per vessel per bi-week (no change proposed)
- Summer/Fall:
 - Summer flounder: The weekly possession limit will be equal to the daily limit multiplied by seven (7) (no change proposed from pilot program)
 - Black sea bass: The weekly possession limit will be equal to the daily limit multiplied by five (5) (no change proposed from pilot program)
- Possession limits may revert back to a daily limit once 90% of the sub-period quota for each species is projected to have been reached (no change for Winter I, less conservative for Summer/Fall)
- Rationale: Through active quota management, the Division is prepared to manage both aggregate programs with a trigger as necessary.

- d. Participation in both the Winter I season and the Summer/Fall season for summer flounder: Winter I participants would be allowed to participate in the Summer/Fall season. (no change proposed from pilot program)

Rationale: Through active quota management, the Division is prepared to manage the summer flounder fishery with a larger aggregate fleet.

e. Summer Flounder Exemption Certificate:

- Summer Flounder:

- Winter I: Exemption Certificate required for participation (no change proposed)
- Summer/Fall: No Exemption Certificate required to land the weekly aggregate possession limit, but Exemption Certificate required to land > than 300 lbs/vessel/day (the pilot program did not require an Exemption to land > 300 lbs/vessel/day).

Rationale: Currently, Exemption Certificate required to land > 200 lbs/day with pilot program participants being exempt. Data shows that 81% of pilot program trips with landings by non-certificate holding operators/vessels did not land > 200 lbs/day, and 87% did not land > 300 lbs/day. The Division proposes to increase the 200 lb/day limit to 300 lbs/day (Part 14 – Summer Flounder Exemption Certificate Program) to provide for more flexibility for non-certificate holding entities.

- f. General eligibility: Provisions added to Summer/Fall Season consistent with existing Winter I rules that the applicant or vessel operator must not have been assessed a criminal or administrative penalty for violations of State or Federal commercial fishing Regulations or laws within the past three (3) years.

Rationale: Currently an eligibility requirement for several programs managed by the Division.

Industry Proposals:

1. No Dual Program Participation

- a. Winter I Program participants not eligible for the Summer/Fall Program; harvesters must choose between Winter I or Summer/Fall

2. Summer Flounder Exemption Certificate

- a. Summer Flounder Exemption Certificate Not Required:

- 1. Summer Flounder Exemption Certificate not required to land full weekly limit of summer flounder in the Summer/Fall Program (e.g., participation in summer/fall aggregate program exempts participants from summer flounder exemption certificate rules)

- b. Alternate Possession Limit for participants that do not hold a Summer Flounder Exemption Certificate:

- 1. Weekly aggregate possession limit = 7X daily limit; however, in a single day, the vessel may only be in possession of one-half (1/2) the weekly limit or the maximum daily limit allowed, whichever amount is greater. (e.g., participation in summer/fall program exempts participants from

summer flounder exemption certificate rules, but limits daily landings based on weekly aggregate limit)

3. Black Sea Bass Possession Limit
 - a. Increase possession limit for all seasons
 1. Increase to 7X the daily limit for all black sea bass seasons
 - b. Increase possession limit for summer season
 1. May 1 – August 15: 7X the daily limit
 2. August 16 – December 31: 5X the daily limit
4. Aggregate Program Trigger:
 - a. Possession limits may revert back to a daily limit once 80% of the sub-period quota for each species is projected to have been reached
5. Aggregate Program participants cannot have their small-mesh net on-board when on an active aggregate program trip.
6. Summer flounder possession limit of 100 lbs/day if fishing with small-mesh and possessing < 250 lbs squid.

Additional Notes:

- Part 12 “*Research Pilot Aggregate Program for Summer flounder and Black sea bass*” is proposed for amendment to extend term into 2023 ***only*** in the event that this proposed rule for a full program is not adopted. If this rule is adopted, Part 12 would remain expired and would be proposed for repeal at a later date.
- Part 14 “*Summer Flounder Exemption Certificate Program*” is proposed for amendment to increase the increase the 200 lb/day limit to 300 lbs/day.
- Rules related to the Winter 1 Summer flounder season as currently contained in Part 3 “Finfish” are proposed to be relocated to this rule so as to house all aggregate program rules in a single location as a distinct permit program.

RI DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Division of Marine Fisheries

Pre-hearing Workshop

February 6, 2023



Purpose of Workshop



- Division presentation of Research Pilot Aggregate Program /Commercial Summer Flounder performance 2019 - 2022
- Discussion Summer Flounder Exemption Certificate Program Possession Limit
- Division proposal Aggregate Program for Summer Flounder and Black Sea Bass
- Public comment/proposals for Aggregate Program for Summer Flounder and Black Sea Bass/Summer Flounder Exemption Certificate possession limit
- Federal American Lobster/Jonah Crab Electronic Tracking Program

Virtual Meeting Participation



- All participants will be muted throughout the meeting.
- To make a comment or ask a question you must use the **Raise Hand** feature in the zoom webinar.
- The meeting facilitator will un-mute one participant at a time to make their comment or ask their question, the participant will then be re-muted.

**Please minimize background noise while unmuted! –
Thank you**

Process and timeline



- **Jan. 31:** Workshop #1
- **Feb. 6:** Workshop #2
- **March 6:** Public Hearing*
- **April 3:** RI Marine Fisheries Council
- **May 1:** Rules effective

* Stay tuned for listserv announcing noticed rule and 30-day comment period

Research Pilot Aggregate Program for Summer Flounder and Black Sea Bass



Background:

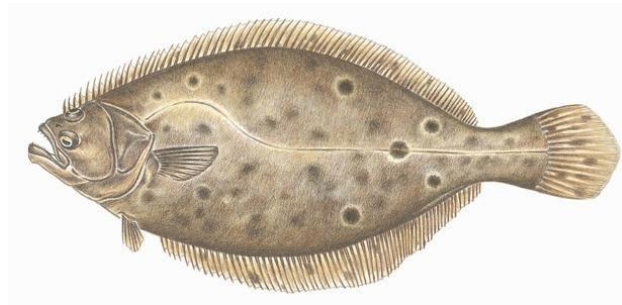
- **Purpose:** To assess the effectiveness and viability of an aggregate landings approach as an alternative to traditional daily possession limit quota management in the commercial summer flounder and black sea bass fisheries from May 1 through Dec. 31 (i.e., outside of Winter I (Jan. 1 – April 30) season).
- **Program:**
 - Program/rule initially adopted Jan. 1, 2019
 - 3 vessels/gear type (6 gear types; 18 available permits)
 - Possession limit = 7x daily limit (fluke and BSB)
- **Amendments:**
 - 2020: 6 vessels/gear type (6 gear types; 36 available permits)
 - 2022:
 - Extended as pilot
 - Removed gear type restrictions; increase # permits to 59
 - BSB poss. limit = 5x daily limit

Summer Flounder Exemption Certificate Possession Limit



Program background:

- Rule initially adopted 1995
- Intended to preserve quota for certificate holding vessels by limiting issuance to vessels with historic landings and limiting daily limit of vessels w/o Exemption Cert. (i.e., 200 lbs/day)
- Required to participate in the Winter I (1/1 – 4/30) Aggregate Landing Program for Summer Flounder (permit required)

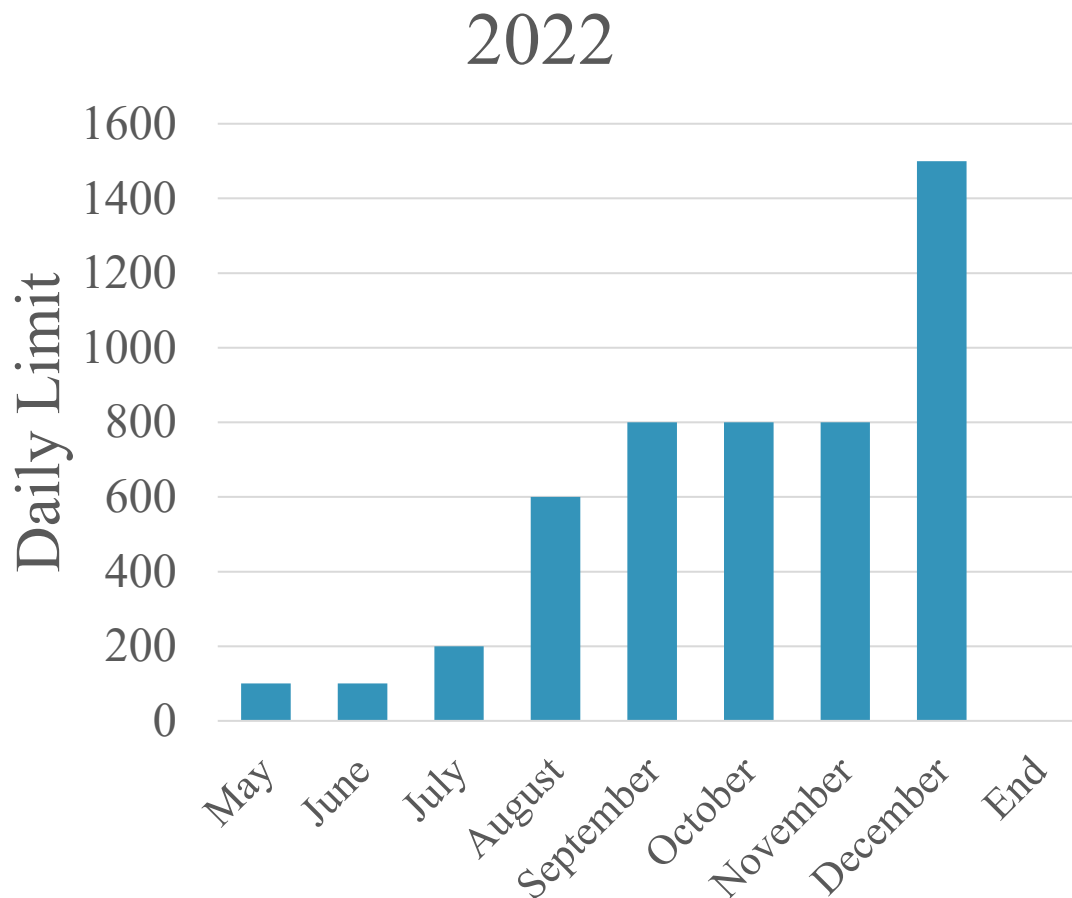


Research Pilot Aggregate Program for Summer Flounder and Black Sea Bass



Fluke Possession Limits - 2022

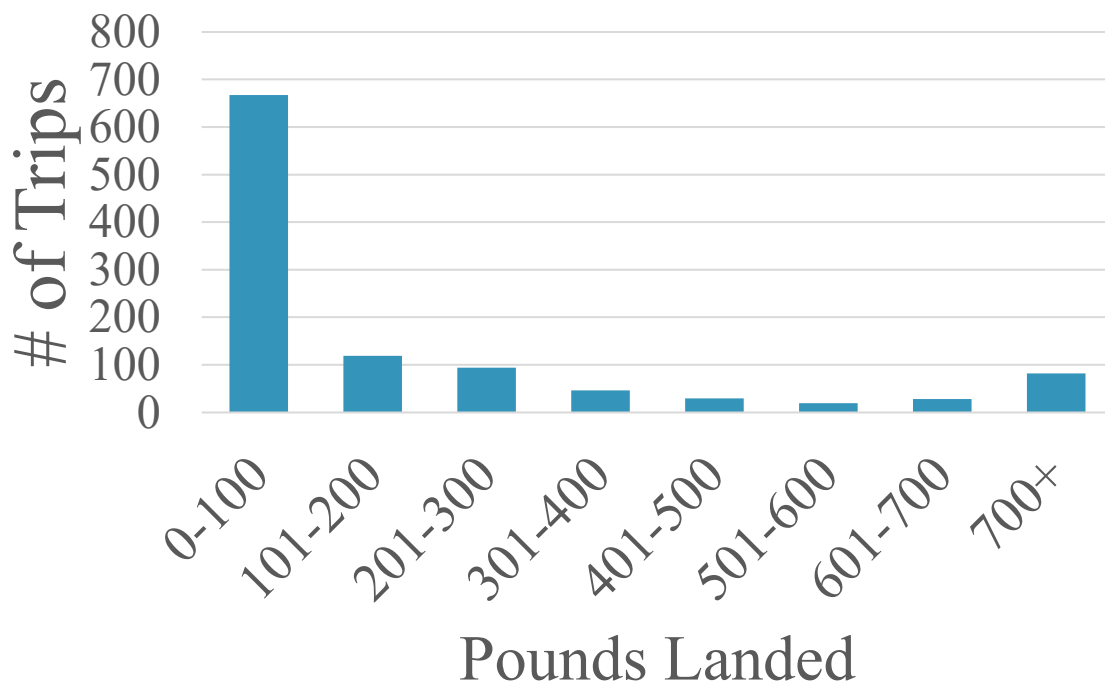
- Highest participation in 2022 (~44 harvesters)
- Weekly limits (lbs):
 - May 1: 700
 - July 3: 1,400
 - July 24: 2,800
 - Aug. 14: 4,200
 - Aug 28: 5,600
 - Nov. 27: 10,500



Research Pilot Aggregate Program for Summer Flounder and Black Sea Bass



2022 Fluke Landings (May through mid-December)



Pounds Landed	Cumul. Percent	Cumul. Trips
>100	38	417
>200	27	298
>300	19	204
>400	15	158
>500	12	129
>600	10	110
>700	8	82

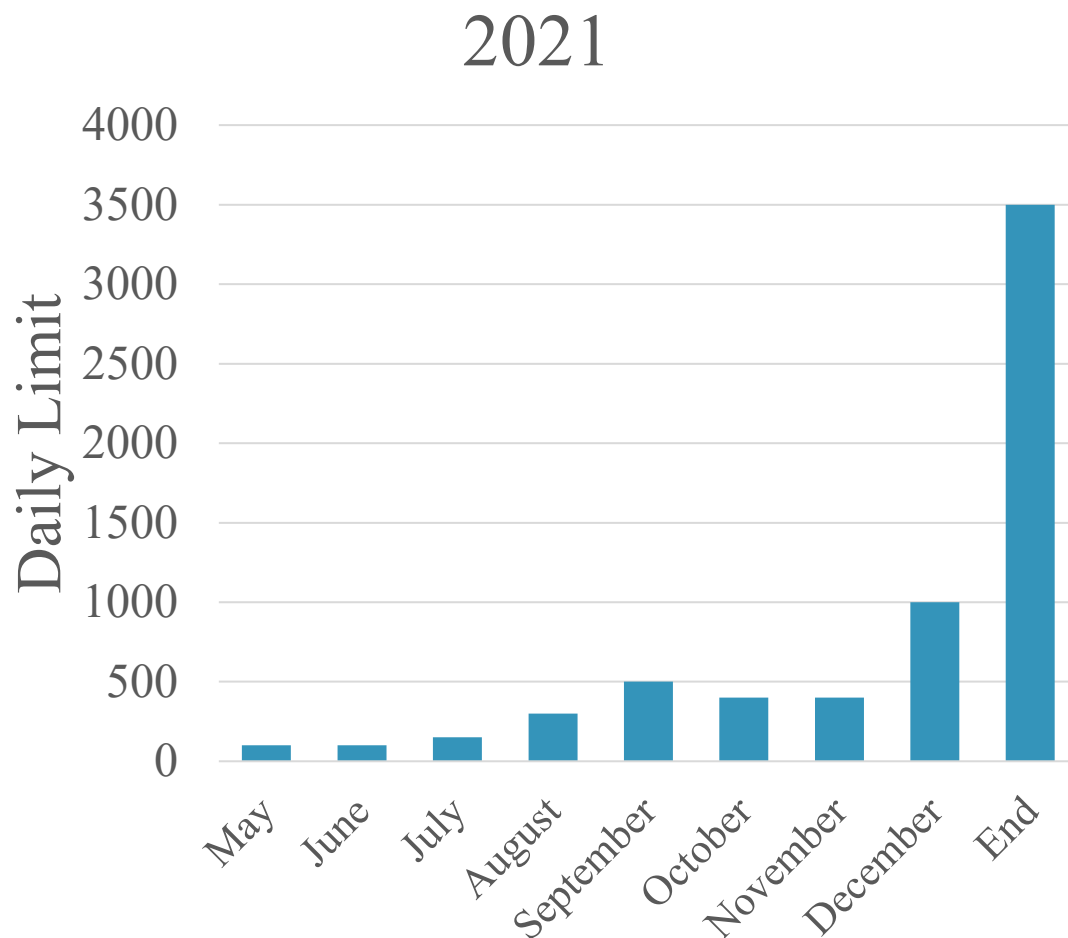
- Landings data from:
 - Aggregate participants only
 - Only trips w/ fluke landed
- 73% of all trips that landed fluke did not exceed the 200 lb/day limit
- 298 trips exceeded the 200 lb/day limit

Research Pilot Aggregate Program for Summer Flounder and Black Sea Bass



Fluke Possession Limits - 2021

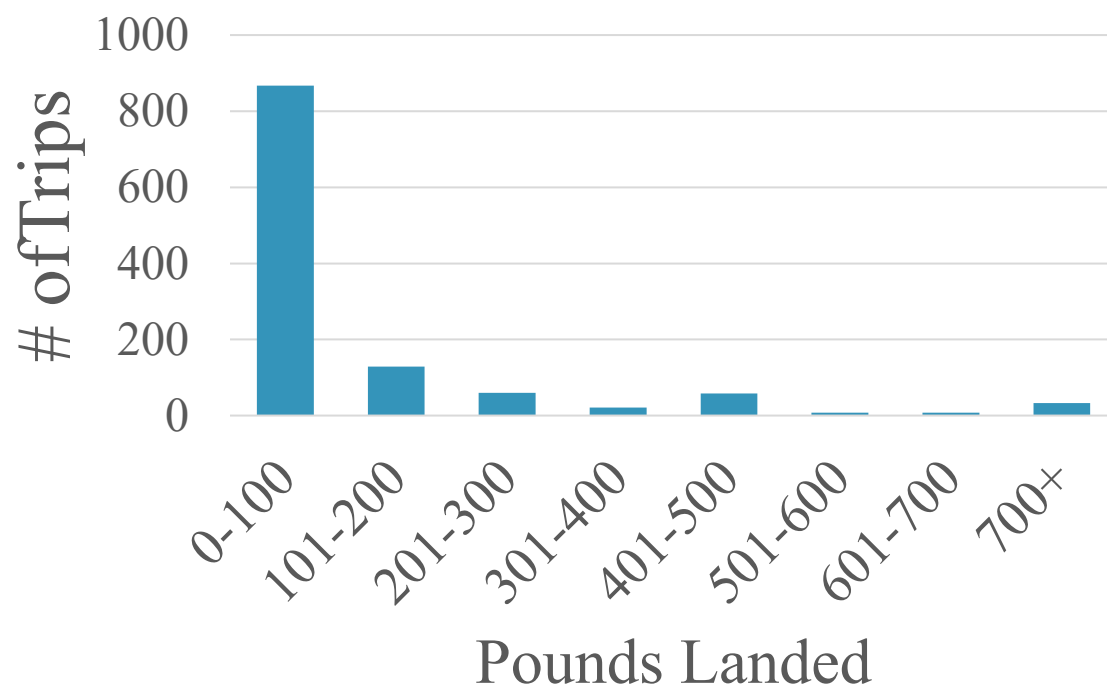
- \approx half the # of participants in 2021 as compared to 2022
- Weekly limits (lbs):
 - May 1: 700
 - July 18: 1,050
 - Aug. 15: 2,100
 - Sept. 5: 3,500
 - Oct 17: 2,800
 - Nov. 28: 4,200
 - Dec. 10: 7,000
 - Dec. 16: 14,000
 - Dec. 19: 24,500



Research Pilot Aggregate Program for Summer Flounder and Black Sea Bass



2021 Fluke Landings



Pounds Landed	Cumul. Percent	Cumul. Trips
>100	27	317
>200	16	188
>300	11	128
>400	9	107
>500	4	49
>600	3	41
>700	3	33

- 84% of all trips that landed fluke did not exceed the 200 lb/day limit
- 188 trips exceeded the 200 lb/day limit

Research Pilot Aggregate Program for Summer Flounder and Black Sea Bass

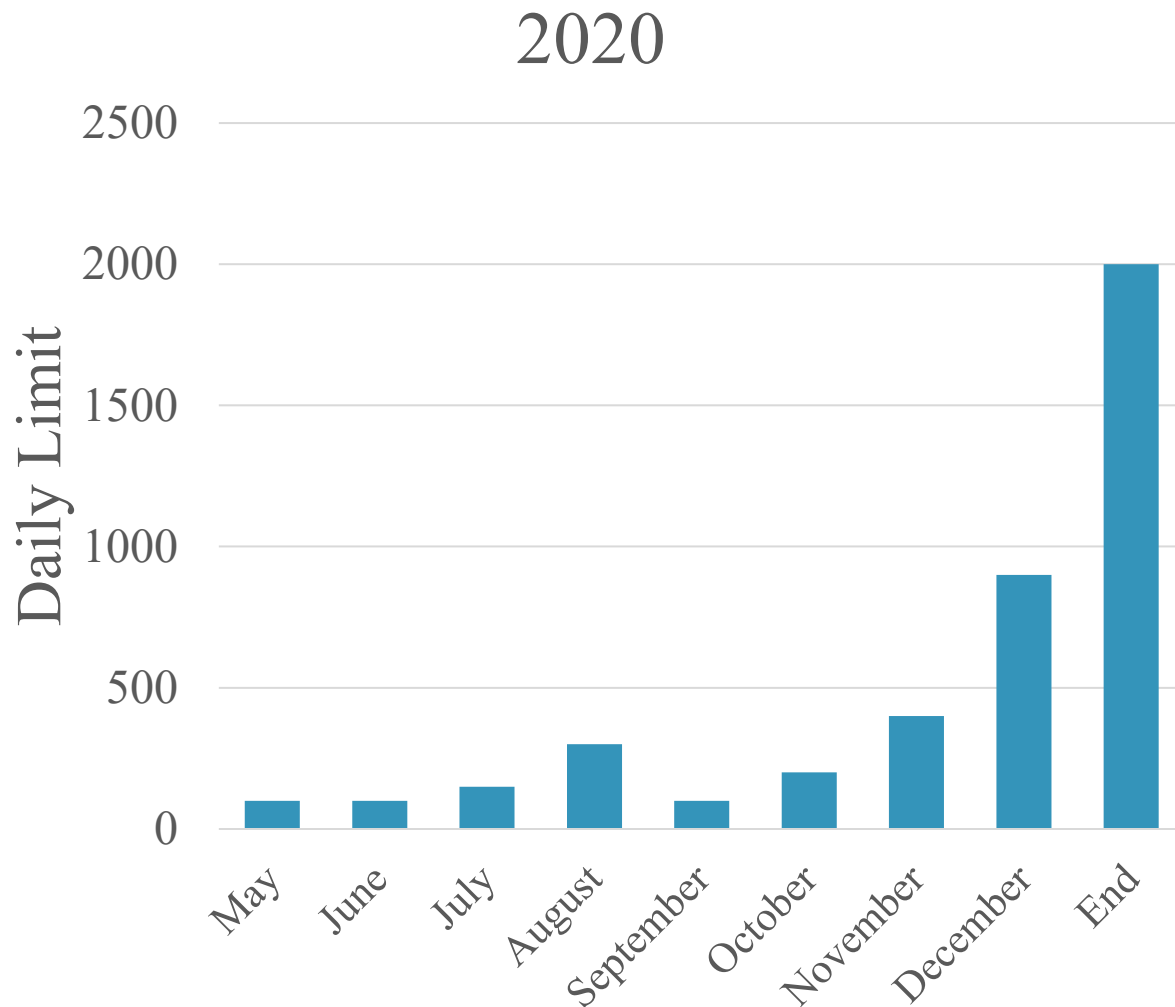


Fluke Possession Limits - 2020

- \approx half the # of participants in 2020 as compared to 2022

- Weekly limits (lbs):

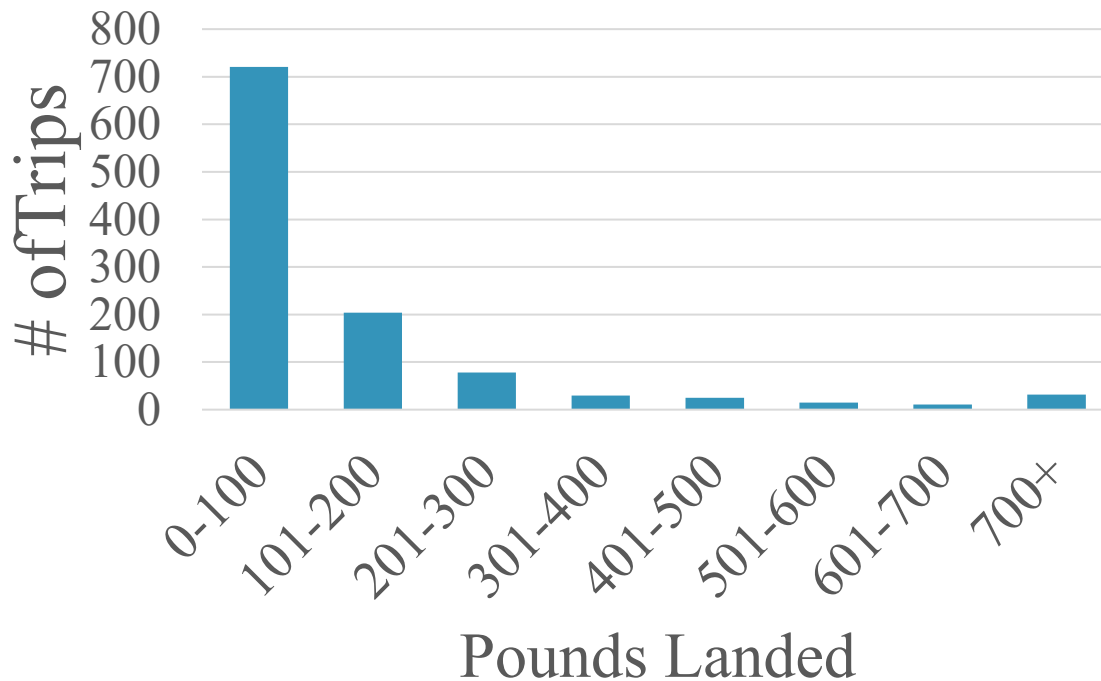
- May 1: 700
- July 12: 1,050
- Aug. 2: 1,400
- Aug 16: 2,100
- Sept. 16: 700
- Oct. 2: 1,400
- Oct. 28: 2,100
- Nov. 18: 2,800
- Nov. 22: 3,500
- Dec. 6: 4,900
- Dec. 13: 6,300
- Dec. 20: 14,000



Research Pilot Aggregate Program for Summer Flounder and Black Sea Bass



2020 Fluke Landings



Pounds Landed	Cumul. Percent	Cumul. Trips
>100	35	395
>200	17	191
>300	10	113
>400	7	83
>500	5	58
>600	4	43
>700	3	32

- 83% of all trips that landed fluke did not exceed the 200 lb/day limit
- 191 trips exceeded the 200 lb/day limit

Research Pilot Aggregate Program for Summer Flounder and Black Sea Bass



Summary of Commercial Summer Flounder Performance 2019-2022

- No early closures
- Several increases in daily limits
- Challenge to utilize quota

Division Proposal - Aggregate (Summer/Fall)

Program – Summer Flounder



- Allow pilot program rule to remain expired/repeal and adopt full program via new rule
- Require Exemption Certificate to land >200 lbs/day (suspended for pilot program).
- Season: May 1 – Dec. 31 (no change from pilot).
- Possession Limit: 7x daily limit. Close when 80% of quota reached (no change from pilot)
- Winter I (1/1 – 4/30) participants eligible for summer/fall season

Division Proposal - Aggregate (Summer/Fall)

Program – Black Sea Bass



- Season: May 1 – Dec. 31 (no change from pilot)
- Possession Limit: 5x daily limit. Close when 80% of quota reached (no change from pilot)

Industry Proposal - Aggregate (Summer/Fall) Program - Black Sea Bass



- Seasons/possession limits:
 - ~~May 1 – Dec. 31: 5x daily limit~~
 - May 1 - June 30: 7x daily limit
 - July 1 – Aug. 15: 7x daily limit
 - Aug. 16 – Sept. 15: 5x daily limit
 - Sept. 16 – Oct. 15: 5x daily limit
 - Oct. 16 – Dec. 31: 5x daily limit

American Lobster and Jonah Crab Electronic Vessel Tracking



Applicability:

Federal Permit Category Name	Federal Permit Category Abbr.	Description
Commercial Trap Gear Area 1	A1	May harvest lobster in Federal Lobster Management Area 1 using trap gear
Commercial Trap Gear Area 2	A2	May harvest lobster in Federal Lobster Management Area 2 using trap gear
Commercial Trap Gear Area 3	A3	May harvest lobster in Federal Lobster Management Area 3 using trap gear
Commercial Trap Gear Area 4	A4	May harvest lobster in Federal Lobster Management Area 4 using trap gear
Commercial Trap Gear Area 5	A5	May harvest lobster in Federal Lobster Management Area 5 using trap gear
Commercial Trap Gear Outer Cape Area	AOC	May harvest lobster in Federal Lobster Management Outer Cape Area using trap gear

- Commercial Trap Gear Area 6 is excluded, as the area occurs in state waters and requires a valid CT or NY state lobster license to fish in this area.

American Lobster and Jonah Crab Electronic Vessel Tracking



Does not apply to:

- A person with a state-only lobster permit and NO federal commercial trap gear area permit
- A permit holder with federal commercial trap gear permit that has been placed in CPH, a permit status for when a vessel with limited access permits has sunk, been destroyed, or has been sold to another person without its permit history
- A vessel with a federal lobster commercial trap gear permit listed that DOES NOT fish trap gear at any point in the fishing year (i.e., only fishes other gear under a federal lobster commercial/non-trap permit, charter/party non-trap permit, and/or does not fish any trap gear at any point in the fishing year)
- Vessels that an Area 5 Waiver Permit (for BSB) with NO OTHER lobster trap gear area permits

American Lobster and Jonah Crab Electronic Vessel Tracking



Requirements:

- Trackers must be onboard and powered on for *all* trips (even non-lobster/non-commercial trips)
 - Authorization from RI DMF for haul outs, device failures, etc.
- Tampering with an approved tracking device or signal is prohibited
 - Tampering includes any activity that may affect the unit's ability to operate or signal properly, or to accurately compute or report the vessel's position.
- If device is found to be malfunctioning- report to RI DMF ASAP (grace period)

American Lobster and Jonah Crab Electronic Vessel Tracking



Next Steps:

- Approved Devices
 - WHG/CLS NEMO
 - Viatrax Boat Command
 - Network Innovations hiSky
- Device Distribution – funds allocated to RI to purchase devices and data plans; actively working on Spend Plan
- Certification of Device Installation
- Permit Holder Support

American Lobster and Jonah Crab Electronic Vessel Tracking



Certification of Device Installation:

- After device is installed on vessel (either by harvester or professional installer) and powered on – harvester sends signed affidavit to RI DMF
- RI DMF will follow-up with harvester letting them know if device is working or not
- Affidavit must be signed and returned to states prior to departing on the first fishing trip after the program implementation date.

Permit Holder Support:

- Device issues should be directed to device vendor's customer service
- RI DMF will respond to general inquiries, troubleshoot where feasible, and help transfer inquiries to appropriate body
- Staff can confirm with harvesters that tracker is working properly
- RI DMF in charge of data validation (VMS and VTR matching)
- RI DMF not in charge of installation or troubleshooting of vessel tracker

American Lobster and Jonah Crab Electronic Vessel Tracking



Data:

- Tracker (VMS) data securely sent from VMS Vendor to ACCSP SAFIS
- eVTR data (e.g., eTrips, Fish Online) sent to ACCSP SAFIS
- VMS and VTR data is ‘matched’ to create a record for each fishing trip within SAFIS
- Only state managers with confidential data access may see/work with this data
- State managers validate all trips
 - Correct matches
 - VTR’s with no matching track (e.g., error in date for VTR)
 - VMS tracks with no matching VTR (when lobster trip)

End of Slides!



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250-RICR-90-00-23

TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 90 – MARINE FISHERIES

SUBCHAPTER 00 – N/A

PART 23 – Aggregate Programs for Summer Flounder and Black Sea Bass

23.1 Purpose

The purpose of the programs is to establish aggregate possession limits for commercial summer flounder and black sea bass to aid in the management of the marine resources of Rhode Island.

23.2 Authority

These Rules and Regulations are promulgated pursuant to R.I. Gen. Laws Title 20, R.I. Gen. Laws Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with R.I. Gen. Laws § 42-35-18(b)(5), Administrative Procedures Act, as amended.

23.3 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.

23.4 Definitions

See Rhode Island Marine Fisheries Regulations, Part 1 of this Subchapter.

23.5 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.

23.6 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 these Regulations 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.

23.7 General Eligibility

- A. Applicants must hold a valid commercial fishing license issued by the Department if fishing in state waters.
- B. The vessel operator must hold a valid landing permit issued by the Department and valid federal permit if fishing in federal waters.
- C. The applicant or vessel operator must not have been assessed a criminal or administrative penalty for violations of State or Federal commercial fishing Regulations or laws within the past three (3) years.
- D. Applicants must be in compliance with commercial fishing data reporting requirements pursuant to Part 2 of this Subchapter.
- E. The vessel must be commercially declared pursuant to Part 2 of the Chapter.

23.8 Application and Permit

- A. A permit issued from the Director is required to participate in this program. Permit applications shall be completed on forms as prescribed by the Director. Applications not completed in their entirety shall not be considered.

23.9 General Permit Conditions

- A. Participants must maintain compliance with commercial fishing data reporting requirements pursuant to Part 2 of this Subchapter, Commercial and Recreational Saltwater Fishing Licensing Regulations.
- B. Permits are non-transferable. Only the person(s) and vessel named on the permit are authorized to use the permit.
- C. Participants and participating vessels must adhere to all applicable Rules and Regulations governing commercial fishing operations, including but not limited to mesh size restrictions, offloading hours, at-sea transfers, and reporting and record-keeping requirements.
- D. Possession limits are subject to change throughout the season pursuant to § 1.7 of this Subchapter. Notification of any such modification is made pursuant to § 1.7(B)(4) of this Subchapter. It is the responsibility of the licensed person to comply with possession limits and all such modifications.
- E. Possession limits may revert back to a daily limit once 90% of the sub-period quota for each species is projected to have been reached.

23.10 Winter I Program

- A. Authorizes the aggregate possession limit of summer flounder during the specified season(s) to authorized permit holders.
- B. Eligibility:
1. The vessel, if harvesting summer flounder from Federal waters, holds a valid Federal Summer Flounder Moratorium Permit and Rhode Island Summer Flounder Exemption Certificate issued pursuant to Part 14 of this Subchapter.
 2. The vessel's operator, if harvesting summer flounder from State waters, holds a valid Summer Flounder Exemption Certificate.
- C. Season: Sunday of the first full week in January through April 30.
- E. Possession Limit: Four thousand (4,000) pounds per vessel per bi-week.

23.11 Summer/Fall Program

- A. Authorizes the aggregate possession limit of summer flounder and black sea bass during the specified season(s) to authorized permit holders.
- B. Eligibility:
1. The vessel, if harvesting summer flounder from Federal waters, holds a valid Federal Summer Flounder Moratorium Permit.
 2. Applicant vessels shall agree to install a Division-approved vessel monitoring system (VMS) device on their vessel. The cost of such VMS device shall be the responsibility of the participant.
 3. Applicant vessels shall agree to submit catch and effort information through a Division-approved electronic application. The cost of such application shall be the responsibility of the participant.
 4. Applicant vessels may be required to take any State or Federally authorized observers at any time.
- C. Season: May 1 through December 31.
- D. Permit Conditions:
1. Vessel monitoring system devices and reporting applications shall be maintained in operational order and be actively engaged at all times. Malfunctioning of any device will result in permit suspension until the device is returned to operational order.

2. Participants shall document catch and effort information through the Division approved electronic application prior to offload.
3. Participating vessels may be required to take any State or Federally authorized observers at any time.
4. The permit may be terminated by the participant at any time by submitting a request to the Department. Once terminated, the participant may not reapply to the aggregate program during the same fishing year.

E. Possession Limit:

1. Summer flounder: The weekly possession limit will be equal to the daily limit multiplied by seven (7).
2. Black sea bass: The weekly possession limit will be equal to the daily limit multiplied by five (5).

23.13 Penalties for Non-Compliance

A. Penalties for non-compliance:

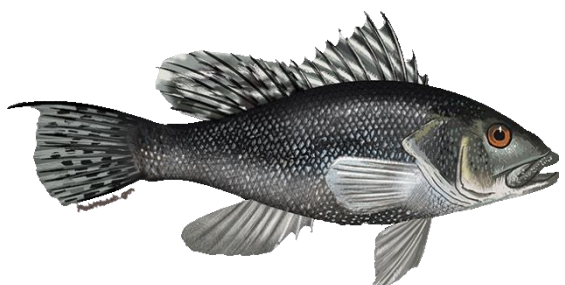
1. In addition to the penalties for non-compliance specified in § 1.11 of this Subchapter, non-compliance with the provisions of these Regulations or the permit agreement may result in permit revocation in the aggregate program for remainder of the sub-period or the subsequent sub-period. If for any reason a sub-period does not exist by Regulation, the privilege of the owner(s) and operator(s) to commercially harvest fish shall be suspended for the same calendar time period as described in the current sub-period upon adjudication.
2. The Director may also revoke, in writing, the authorization to participate in this Program, should the Director determine that such program participant has been assessed a criminal or administrative penalty for violations of State commercial fishing Regulations or for violations of Federal commercial fishing Regulations or laws, within the past three (3) years.

Assessment of the Rhode Island Summer Flounder and Black Sea Bass Pilot Aggregate Management Programs



June 2022

Julia Livermore



Introduction

For years, discussions on aggregate landings programs have garnered interest from the summer flounder, or fluke (*Paralichthys dentatus*), and black sea bass (*Centropristis striata*) commercial fisheries in Rhode Island. The weekly aggregate landing model has been used for fluke during a winter sub-period (January through April) since the 1990s, scup have been managed using a weekly aggregate limit for many years, and a weekly or bi-weekly aggregate landing approach has been used for bluefish since 2015. The commercial quotas for fluke and black sea bass have traditionally been managed through season-specific quotas, changes in possession limits throughout the year, and in some cases closures during certain days of the week. Both fluke and black sea bass are targeted by a large proportion of the commercial fleet (particularly in summer) due to their high demand and relatively high prices at dealers. As such, the daily possession limit of both species is generally low with state quota allocations also contributing to low limits. Given the variability of fish stocks, low quotas, and subsequently low possession limits, combined with rising fuel prices, vessel maintenance costs, safety at-sea concerns, and global pandemics, fisheries managers are striving to provide more flexible fishing programs to the fishing industry.

It is hypothesized that an aggregate program would allow fishermen more flexibility in fishing practices through the utilization of a weekly possession limit instead of a daily limit. Such a program could potentially decrease costs to the fishermen by decreasing days at sea (reduced fuel and vessel maintenance costs) while also increasing safety as fishermen could pick which days are the best in terms of weather. Aggregate programs could also decrease regulatory discards, and thus, discard mortality in some fisheries, especially at times when possession limits are low by reducing the total number of fishing trips. A reduction in number of fishing trips could mean less time and area for mobile gears to be in contact with the bottom resulting in a potential benefit to the related habitat. Aggregate possession limits could also reduce illegal fishing behavior by increasing flexibility and therefore reducing the incentive to harvest over the daily limit.

However, there have been stated concerns from the commercial industry in RI that aggregate programs may: 1) favor individual businesses depending on how they operate; 2) increase catch rates, which can lead to quicker quota consumption and result in shorter fishing seasons due to early closures; 3) cause an increase in fish landed and variability in timing of landings that will oversaturate the market and drive prices down; and 4) lead to an increase in illegal fishing activity due to the potential difficulties in accountability and enforceability. Ideas on how such an aggregate program would impact the function of these fisheries and what the potential mechanisms should be to manage and enforce the program are largely untested.

At the recommendation of certain commercial fishing industry representatives and to address these concerns, the Rhode Island Department of Environmental Management (RIDEM) Division of Marine Fisheries (DMF) brought forth a proposal for a pilot fluke and black sea bass aggregate program in the fall of 2018 to the Rhode Island Marine Fisheries Council (RIMFC), which was passed and implemented in 2019. The goal of the Pilot Aggregate Program was to collect data for assessing the viability of an aggregate program for fluke and black sea bass from May 1 to December 31, where participants would be held to a weekly aggregate limit (daily possession limit times the number of days open) in lieu of a daily limit. With the support of the 2019 Pilot Aggregate Program fishing participants, the program was extended through the 2021 fishing year in hopes of better understanding interannual variability

associated with the program that is imperative to understand before any form of the program can be formally adopted. Increasing the number of participants using each respective gear type was also essential to capture variability among harvesters.

While this pilot aggregate program was specific to the RI fishing industry, other states could adopt similar flexible management opportunities, depending on RI findings. Understanding how fishing businesses respond to aggregate programs may provide justification for other states or regional fisheries to take aggregate program approaches to management for species with small quotas. Fluke and black sea bass are both highly sought-after species coast-wide, with complicated management structures; pilot aggregate program evaluation may help to improve fishing flexibility, while maintaining healthy fish populations.

Harvest and effort data collection (via dealer reporting and state logbooks or federal vessel trip reports) occurred during the pilot aggregate program and all aggregate participants were also required to install a Vessel Monitoring System (VMS) onboard for real-time vessel location monitoring. However, no data collection on the economic and safety components of the program took place initially, limiting state managers' ability to assess program performance in terms of socioeconomic impact. Collection of these data is necessary to determine whether this pilot aggregate program resulted in improved economic efficiency and safety, as intended. Discerning the human behavioral response in terms of changes to fishing activity and business operations is pivotal to understanding what drives changes in harvest. This information is necessary to make informed recommendations about management options that will achieve desired positive impacts for harvesters, specifically stable and predictable harvest to maximize quota utilization within subperiods.

This report presents results from a mixed-methods (qualitative and quantitative) study aimed at addressing this data gap by offering a strategy to collect business information (fuel, bait, ice, grocery, and labor costs, number of days fished, etc.) and perspectives on the program directly from fishermen participating in the program coupled with analysis of landings data for comparison.

Methods

Interviews

To collect participant business information, semi-structured interviews were conducted with pilot aggregate program participants with funding from a grant through the Atlantic Coastal Cooperative Statistics Program (Award Number: NA21NMF4740471). Prior to contacting potential interviewees, a semi-structured interview instrument was developed and approved by the University of Rhode Island's Institutional Review Board, which reviews all research projects involving human subjects to ensure that subjects are not placed at undue risk and that they are ensured informed consent to their voluntary participation. Interview questions focused on perceptions of impacts (i.e., changes to number of trips targeting fluke or black sea bass or costs associated with fuel and bait, whether the program affected the number of discards), behavioral intentions (i.e., changes to number of days at sea or other business decisions), and attitudes towards the program (e.g., positive or negative, what could be done to improve the program).

Sampling efforts attempted to reach all pilot aggregate program participants. This is an example of purposive sampling, which is a common practice for studying individuals of a particular demographic (Bernard and Ryan 2010). Data collection was focused exclusively on participants of the aggregate

programs to allow for assessment of changes to their businesses since joining the program. For the actual pilot aggregate program, starting in 2019, 12 participants were chosen by lottery to represent multiple gear types within the pilot aggregate programs; three otter trawl fishermen, one lobster pot fisherman, three gillnet fishermen, one rod and reel fisherman, three multi-gear fishermen, and one fish pot fisherman. Three participants per gear type were sought in year one, but limited applications for lobster pot, fish pot, and rod and reel participants were received (one apiece). This pool was expanded in 2020 to an additional 18 participants. Three new participants for each gear type were sought in 2020, but not all types met this goal; participants were selected by lottery when more than three applications were received within a gear type. This pilot aggregate program participant pool represented both state-only and federally permitted vessels. New participants brought the totals by gear type to:

- 6 otter trawl
- 6 gillnet
- 2 lobster pot
- 5 fish pot
- 5 rod and reel
- 6 multi-gear (participants whose fishing history was not comprised of over 80% of a single gear type)

Actively fishing pilot aggregate program participants represented between 2.1 % and 6.5% of fishers harvesting summer flounder, and between 2.3% and 6.4% of all RI fishers landing black sea bass across the three years of the pilot program. All 30 program participants were contacted via email (provided when applying for the pilot aggregate program) on October 20th, 2021 requesting to set up an interview. Four program participants responded via email to set up an interview. Based on gear types of those that responded to the email solicitation, an additional 14 participants were given phone calls between October 27th, 2021 and February 24th, 2022 soliciting for interviews. These 14 individuals were selected to address other gear types that did not have as much interview coverage. At least three participants from each gear grouping needed to be interviewed for that gear type to be discussed in reporting, per data confidentiality requirements (ACCSP Rule of Three). Ultimately, a total of 14 program participants were interviewed, representing 47% of the program, as well as one dealer, for a total of 15 interviews conducted. DMF offered embroidered baseball caps to interviewees as a thank you for their willingness to provide information about their experience in the pilot aggregate program.

While a relatively small sample size, 15 interviews represents an acceptable sample size in qualitative data collection. Further, Crouch and McKenzie (2006) recommend that studies not exceed 20 participants to build and maintain trust with participants and allows for optimal open exchange of information. Guest et al. (2006) suggest that data “saturation” (when additional participants do not provide additional insights) occurs around 12 participants in homogeneous groups. Nevertheless, one goal of sampling in qualitative analysis is to ensure that sampling has included a broad set of interests. Given the use of purposive sampling of pilot aggregate program participants only, it is reasonable to assume that this study reached saturation at 12 or more interviews, as a 40% positive interview response rate should achieve an acceptable sample size to determine overall program efficiency for all gear types combined.

Since the COVID-19 pandemic was still ongoing at the time of interviewing, interviews were done either in-person or over the phone, depending on the participant’s preference. Interviews occurred between

October 25th, 2021 and March 7th, 2022 and ranged from ten minutes to one hour and six minutes (mean \pm SD = 35.13 \pm 16.8). All interviews were recorded and transcribed for reporting accuracy, after confirming that the participant was comfortable with the discussion being recorded and providing either written or verbal consent to the interview.

Data Analysis

Of the fishers interviewed, interviewees represented five different gear types: fish pot (3), rod and reel (4), gillnet (3), otter trawl (3), and use of multi-gear types (1). Based on the Rule of Three, fish pot, rod and reel, gillnet, and otter trawl can be discussed in isolation, while multi-gear cannot. Interviewees had between 12 and 50+ years of work experience in the fishing industry.

Interview recordings were transcribed using Temi transcription services (www.temi.com), and manual correction. Transcriptions were then coded in NVivo software (QSR International 2022) for qualitative analysis. NVivo coding allowed for data to be categorized and synthesized by topic area.

Dealer reports from the Standard Atlantic Fisheries Information System (SAFIS) were acquired, along with state logbooks and vessel trip reports from the Atlantic Coastal Cooperative Statistics Program (ACCSP) Data Warehouse, for all fishing activity resulting in fluke and black sea bass landings between 2014 and 2021. These data were analyzed in R statistical software (R Core Team 2022).

Results

All 15 interviewees expressed positive views of the program. In discussing overall thoughts on the program, the following topics were noted as direct benefits (Figure 1):

- Savings on fuel
- Improved safety
- Opportunity to reduce regulatory discards
- Flexibility to target other species certain days
- Ability to make up lost fishing days
- Better for the environment
- Flexibility to spend more time with family
- Improvements to mental health (reduction in stress)
- Ability to coordinate with dealers on when demand for fish would be highest
- Increased fishing efficiency

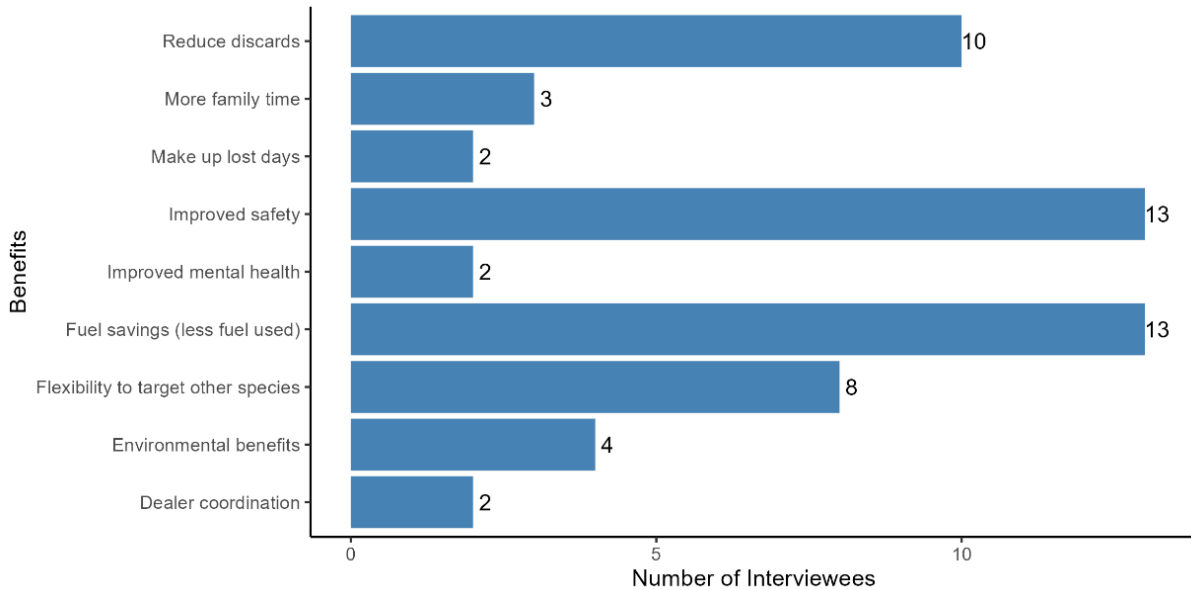


Figure 1. Number of interviewees that noted each respective benefit

The only negative attitude expressed about the program was a concern from one individual that the aggregate landings approach could lead to a reduction in availability of fluke by harvesting the quota more quickly.

The following topic areas were asked about directly within the interviews and summaries of interviewee responses are summarized below.

Safety

Most interviewees (13/15) indicated that the program improved safety. Rationales included the ability to pick fishing days based on weather rather than necessity to catch a daily limit (noted by ten individuals), less time on the water overall (fewer days or shorter days), taking time when needed to make vessel repairs correctly due to reduced pressure to catch a daily limit, and a general ability to avoid risks without losing money.

However, the two remaining individuals said the program had no effect on their safety, primarily because they either fish inshore or are already avoiding bad weather days.

Expenses

Five individuals (one third of participants interviewed) described the pilot aggregate program as either a cost saving or profit increasing program. Based on interviewee responses, savings appeared to be driven primarily by a reduction in the number of trips or overall time at sea, resulting in lower fuel expenses.

Trips

Interview Responses

A slight majority of program participants interviewed (8/15) explained that they took fewer trips during their time in the program. Additionally, two others noted that while they still took the same number of trips, they took fewer to specifically target fluke and black sea bass.

Of those that indicated they had taken fewer trips during their time in the pilot aggregate program, six provided detailed explanations of how the reduction occurred. Those descriptions are as follows:

- For sea bass specifically, one person took 50% fewer trips during the program.
- For the sea bass season, one person went from 21 trips prior the program down to 10 trips (52% reduction).
- One person fished 90-100 days per year prior to the program and during the program fished 75 or fewer days a year (17-25% reduction).
- One person fished 5-7 days a week during the fishing season in years prior and then only fished 2 days a week while in the pilot aggregate program (60-71% reduction).
- One person fished all 7 days a week before being in the pilot aggregate program and then reduced to only 1-1.5 days a week during the pilot (79-86% reduction).
- One person took 90-100 (day) trips per year before the pilot and closer to the mid-seventies during the pilot aggregate program (they described a 15-20% reduction overall).

One of these six also noted that their catch of black sea bass increased while in the program, along with a reduction in the number of trips taken, resulting in a 200% increase in profits during the program relative to prior.

Two interviewees said they took the same number of trips, but their days were shorter and they may have set less gear in the water. Another participant explained that they fished the same number of trips, but kept more fish that would have become discards on trips prior to being in the program. One individual noted that they did not think they had reduced their number of trips during the program, but might do so if fish are not around in large numbers, as individual day trips for a 50-pound limit of black sea bass may not be enough to justify a trip. Finally, one participant also noted that to truly reduce the number of trips, there would need to be aggregate landings allowances for more species.

Fisheries Dependent Data Analysis

Analysis of vessel trip reports in conjunction with landings for all aggregate participants suggests there were reductions in the number of trips by fishers participating in the pilot aggregate program across multiple gear types (Figure 2). For fish pot, most captains had fewer trips in 2020 and 2021 than the 2014-2018 median. Most gillnet and rod and reel fishermen had fewer trips than the 2014-2018 median in all three aggregate years (2019, 2020, and 2021). Lobster pot captains overall had fewer trips during the aggregate time period, but had an equal number of captains harvesting above and below the median in 2020. Trawlers had a similar pattern, where most captains had fewer trips than the median in 2019 and 2022, but an equal number of captains harvesting above and below the median in 2020. Most multi-gear captains had fewer trips than the median in 2019 and 2022, but a larger number of captains with more trips than the median in 2020. Overall, there is a reduction in the number of trips during the pilot aggregate program for aggregate captains relative to their 2014-2018 activity.

It is worth noting that 2020 was an anomalous year for all fishing activity due to the COVID-19 pandemic. While overall pounds landed in Rhode Island of black sea bass and summer flounder increased from 2019 to 2020 (39% and 2%, respectively), the value associated with those landings decreased between the two years (12% and 16%, respectively). Therefore, the low price of ex-vessel landings during the pandemic may have affected harvester behavior.

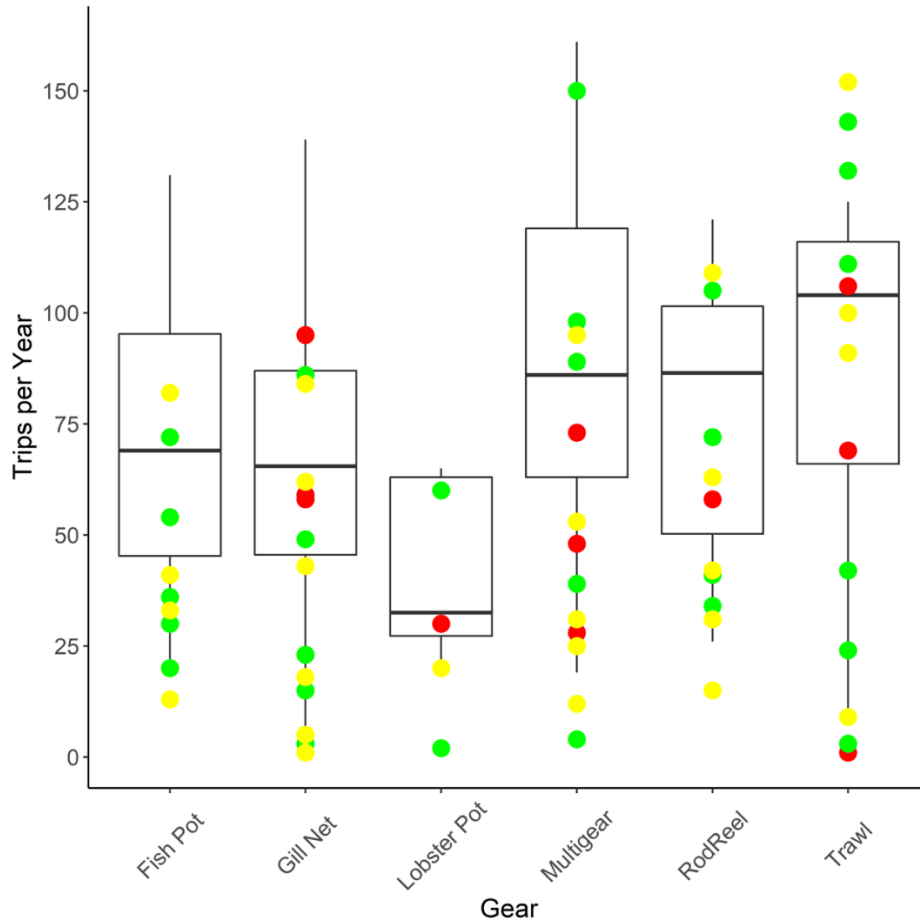


Figure 2. Trips per year for all pilot aggregate program participants by gear type (not just those interviewed). Box plots represent number of annual trips from 2014-2018 and dots represent number of trips during pilot aggregate program participation. Dot color corresponds to pilot aggregate program year, where red is 2019, green is 2020, and yellow is 2021. Figure and analysis conducted by Richard Balouskus, Principal Biologist, RIDEM DMF.

Fuel

A reduction in fuel usage was noted by 13 individuals. For most gear types this resulted from a reduction in the number of trips, but for some gillnetters, their days on the water were shorter because they were able to set fewer nets while still hitting their weekly target catch. One person noted no change in fuel usage, while another was unsure because they targeted other species more as a result of the program, so parsing out fuel usage to target fluke and black sea bass alone was not possible.

Bait

For gear types that use bait (i.e., fish pots and rod and reel), five participants stated that they thought the pilot aggregate program resulted in savings on bait costs. Two others suggested there was no effect on bait expenses, while another two discussed challenges in determining whether changes in bait costs were associated with the pilot aggregate program. Bait prices were noted to be increasing during the program period, and two discussed how they switched from using clam bellies as bait to squid gurry in an effort to save money. However, this had nothing to do with the pilot aggregate program.

Labor

Participants generally thought that labor costs did not change due to the pilot aggregate programs. Only one individual suggested a reduction in labor costs, while seven others stated that they did not observe any changes in paying for crew associated with the program. The majority of interviewees noted that they worked alone or with family members, so there was no change to crew expenses during the program versus prior years.

Wear and Tear

Six interviewees indicated that the program likely resulted in a reduction in wear and tear on either the vessel and/or fishing gear. Of these six, three stated that these reductions were limited in scope and hard to parse out. The other three noted specific situations including replacing gear less frequently because it spent less time in the water, gear not needing to be modified as much to target different species, or a reduction in vessel maintenance time and costs.

An additional two individuals believed that the program had no effect on costs or time associated with vessel or gear maintenance.

Discards

One of the key topic areas discussed by participants related to the program's impact on discarded fish. Of the 15 individuals interviewed, ten (two thirds of those interviewed) stated that they thought the program reduces regulatory discards. Two others suggested that the program may reduce discards, one of which stated that there was no change to their discard numbers, but for other gear types it is likely to reduce them. One additional interviewee stated that they had the same number of dead fish, but got to keep fish that would have been discards previously because they fished the same number of days as before. Only one individual thought that there was no change to discards due to the program.

A key point expressed by multiple individuals was that the program's effect on discards may be different by gear type. For example, it was noted that controlling discards with gillnets can be challenging, but this program does allow for more fish to be kept that traditionally may have been discarded. However, another perspective was that if you hit your target catch more efficiently each week, you may fish less for aggregate species, resulting in fewer discards.

Changes in Catch

Interview Responses

For some gillnetters, the program allowed them to reach their weekly possession limits (equaling more than they would catch fishing on daily limits) because they could catch a large enough amount to make fishing worthwhile.

For fish potters, one noted that their catch of black sea bass increased even while the number of trips decreased because they were able to keep more fish on a single trip.

Two individuals also suggested that catch (and profits) were higher because the pilot aggregate program prevented them from having "lost" fishing days. Being able to land in aggregate allowed them to make up for "lost" days, where historically, if they had not fished, that access to the daily possession limit was eliminated.

Fisheries Dependent Data Analysis

Landings data were analyzed to evaluate the difference in catch of black sea bass and fluke of participants in the pilot aggregate program relative to those harvesting under daily possession limits. The number of aggregate participants landing black sea bass in each year differed (Table 1); not all eligible participants landed black sea bass in 2020 and 2021.

Table 1. Number of aggregate and non-aggregate participants fishing in each of the three program years. The number of total aggregate program participants in 2019 was 12 and was increased to 30 in 2020 and 2021.

Species	Year	Aggregate	Non-Aggregate	% Aggregate
Black Sea Bass	2019	12	515	2.3%
Black Sea Bass	2020	29	452	6.4%
Black Sea Bass	2021	25	448	5.6%
Summer Flounder	2019	10	473	2.1%
Summer Flounder	2020	25	384	6.5%
Summer Flounder	2021	21	404	5.2%

In all three pilot years, aggregate participants landed more pounds of black sea bass each week than non-aggregate harvesters on average (Figure 3). Distributions of average weekly catch differed statistically between the two across the three years (Kolmogorov–Smirnov test p-value < 0.001).

Aggregate participant numbers landing summer flounder also differed each year (Table 1); in all three years, not all eligible participants landed summer flounder. Similar to black sea bass landings, aggregate participants generally landed more pounds weekly of summer flounder than non-aggregate harvesters on average in 2019, 2020, and 2021 (Figure 4). Average weekly catch distributions also differed between aggregate and non-aggregate harvesters (Kolmogorov–Smirnov test p-value < 0.001).

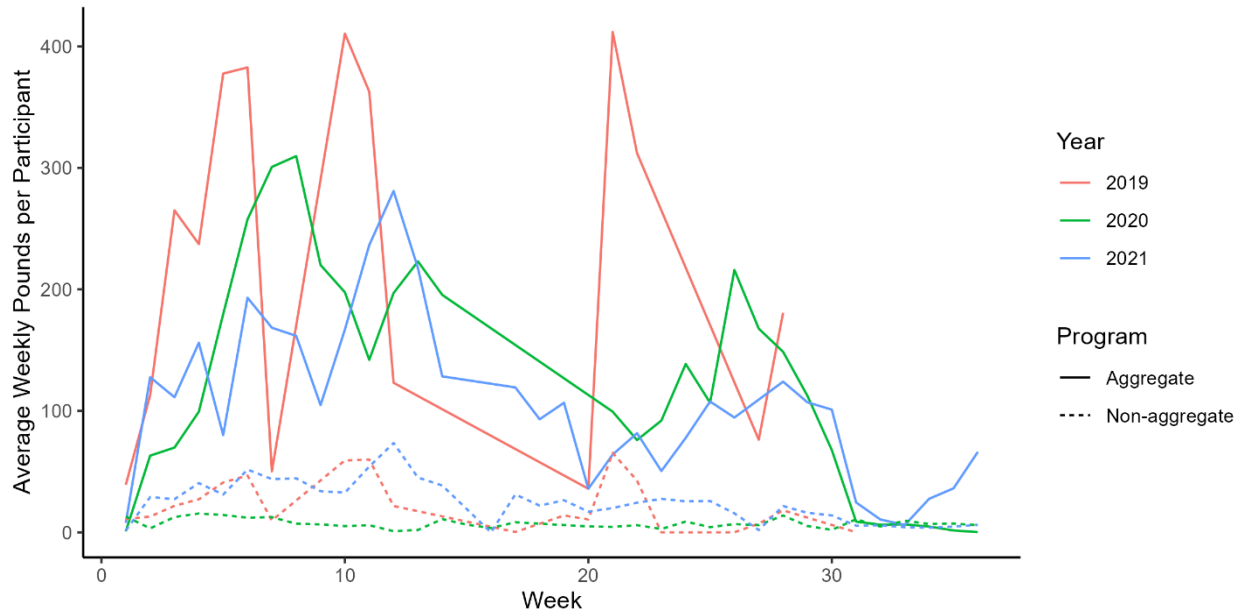


Figure 3. Average weekly pounds of black sea bass landings from 2019-2021 separated by aggregate versus non-aggregate participants. The aggregate landings period was only in effect from May – December each year. Only weeks during the aggregate period are included in this plot. Black sea bass harvest was closed in December of 2019 due to reaching the state’s quota allocation.

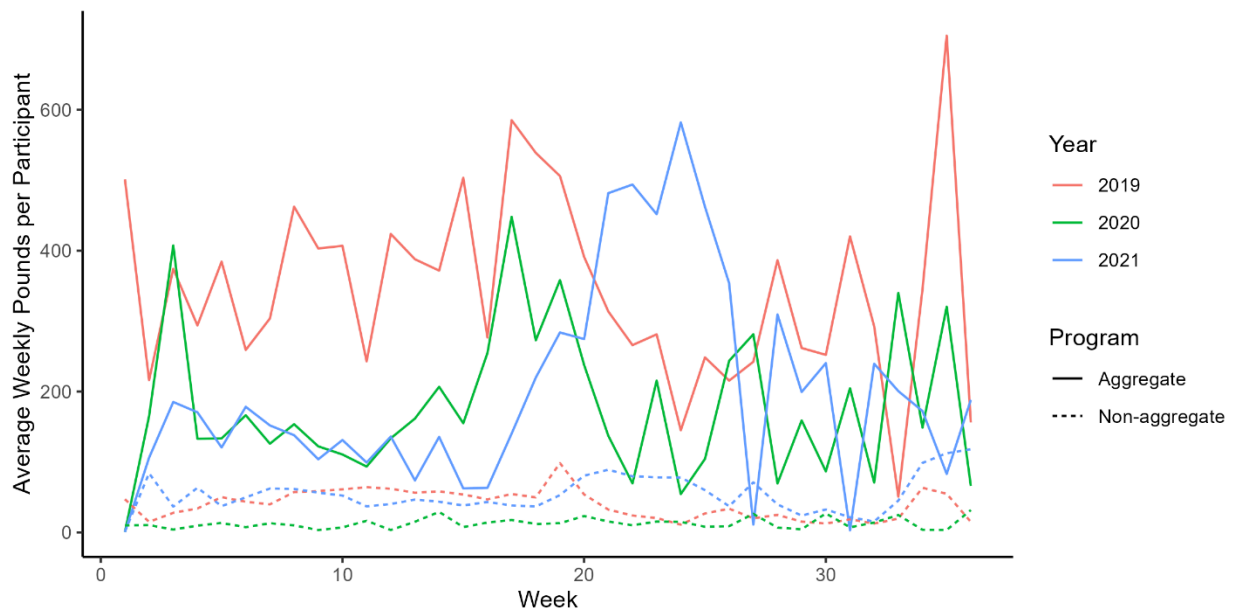


Figure 4. Average weekly pounds of summer flounder landings from 2019-2021 separated by aggregate versus non-aggregate participants. The aggregate landings period was only in effect from May – December each year. Only weeks during the aggregate period are included in this plot.

Quota Interactions

Interview Responses

It was unclear through the pilot program whether black sea bass and summer flounder quotas would be substantially affected by an aggregate landings approach. Eight interviewees noted potential program interactions with quota, but responses were primarily describing concerns with exhausting quota if the entire fleet could land in aggregate. However, others argued that since the total weekly possession limit is no higher for aggregate participants, there should be no effect.

Fisheries Dependent Data Analysis

RIDEM DMF staff conducted simulations extrapolating harvest rates of those within the pilot aggregate program to the entire fleet and found that the quota may be exhausted more quickly; results were presented at a public workshop on January 10th, 2022.

Suggested Program Improvements

Interviewees offered a variety of suggestions on how the program could be improved moving forward. Three individuals suggested that other species, or all species, should be allowed to be landed in aggregate; tautog and striped bass were the most frequently suggested additional species.

Two interviewees noted concerns with the vessel monitoring system (VMS) requirements and suggested that the VMS requirement should be eliminated, or communication on why it is necessary be improved. One such comment was about technical challenges with these systems and the other comment was a preference to not have vessel location tracking, unless absolutely necessary for enforcement purposes.

Two interviewees suggested that no changes be made to the program, only that it be extended temporally. One individual suggested opening the program up to all RI commercial harvesters while others explicitly argued against that approach and advised the DMF to only expand the pilot aggregate program to collect more data on catch variability among program participants.

Finally, for those interviewees concerned with aggregate programs causing the quota to be exhausted too quickly, two suggestions were offered: 1) one individual recommended allowing a weekly aggregate limit, but having a daily limit built in, where this daily limit is larger than the non-aggregate daily possession limit, and 2) another individual suggested having the aggregate weekly limit be a function of fewer days than total days open (e.g., 6 days x the daily possession limit instead of 7 days).

Conclusion

Perceptions of Program from Fishing Industry Perspective

Based on the interviews conducted in 2021 and 2022, participant perceptions of the pilot aggregate program were overwhelmingly positive, with some neutral comments (i.e., no changes or improvements relative to past fishing activity), and one negative comment (a concern about potential impacts to the summer flounder quota). All interviewees expressed a desire to stay in the program, depending on its future format, but most noted that they simply wanted to see the program continue in some form. One interviewee suggested that the number of days per week to determine the aggregate limit could be modified if aggregate landings were found to accelerate quota depletion. However, another noted explicitly that if the number of days were reduced, they would leave the program and chose to fish daily possession limits instead to maximize their catch. This tradeoff was ultimately discussed by the RIMFC.

Perceptions of Program from Management Perspective

From the perspective of the DMF, the pilot aggregate program was successful in garnering interest from the fishery to participate and allowing for tracking of landings data for comparison to non-aggregate activity and tracking impacts to the state quota. The pilot also enabled successful integration of VMS tracking and enhanced data collection into a new management program. Based on the interviews, the program was also successful in achieving a variety of program targets: 1) reducing regulatory discards, 2) increasing flexibility for commercial harvesters in terms of how they conduct their fishing activity, which may enable adaptability in light of changing ocean and market conditions, and 3) creating conditions where fishermen may be able to harvest more efficiently and save money or increase profits.

As previously noted, one of the drivers for the fishing industry to recommend an aggregate landings approach for high-value, low possession limit species was to reduce the incentive to harvest over the daily possession limit. The DMF agreed that an aggregate landings approach could potentially reduce perverse incentives created by small daily possession limits and the VMS requirement could further limit illegal activity. Whether this pilot aggregate program succeeded in changing incentives remains to be evaluated directly, but the RIDEM Division of Law Enforcement (DLE) used pilot program participants' VMS to monitor their fishing activity throughout the program. Law enforcement approached the pilot aggregate program with some trepidation due to concerns over a lessened ability to readily identify non-compliance in trip limits and a need to ensure accountability on the part of the fishermen. With the inclusion of a VMS requirement, these concerns for identifying non-compliance were lessened. DLE has recommended that all future aggregate programs make VMS mandatory. The DLE still has concerns with the prolonged administrative procedure to sanction permits for documented violations and recommends that consideration be given to immediate permit sanctions upon documentation of said violation; a similar process is employed in other jurisdictions and future programs could explore the feasibility of additional enforcement measures.

Future Decisions

In early 2022, the RIMFC discussed the fate of the pilot aggregate program and evaluated three potential options: 1) eliminate the program, 2) implement the program indefinitely in some capacity, or 3) continue the pilot program with some modifications to test for additional uncertainties. Ultimately, on March 7th, 2022, the RIMFC voted to extend the pilot aggregate program another year (through 2022), and to expand the number of participants to 58, with no restrictions by gear type. They also modified the program to using five days instead of seven to determine the aggregate limit for black sea bass. This will allow for an additional year of data collection to help address questions that remain unanswered. For example, the expanded pilot aggregate program should help to provide additional data on the rate of quota depletion, given the uncertainty around the simulations and the speculative answers from program participants.

However, some questions remain untested. For example, future research should seek to quantify the change in discards associated with an aggregate landings program. This could include fisheries observers onboard commercial vessels to collect information on the number of black sea bass and summer flounder discarded, as well as information on size, sex, and maturity of discarded fish.

Further, analysis on the variability in catch between aggregate and non-aggregate participants across program years is necessary to better understand potential drivers. This should include incorporation of year class effects for both black sea bass and fluke to determine whether differences may be attributed

to the program or external influences. Additional modeling incorporating market factors (e.g., COVID-19) should also be conducted, as well as more detailed characterization of program participants versus the larger fishing fleet targeting fluke and black sea bass. Questions also remain on how representative the pilot aggregate program participants are of the Rhode Island fluke and black sea bass fisheries.

DMF staff intend to conduct more detailed data analyses on these topics following an additional year of data collection to include the 2022 fishing year with more aggregate participants. These results will be compiled into a manuscript for publication upon completion.

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Summer Flounder – Black Sea Bass
Pilot Aggregate Program Summary: 2019-2022



April 2023 Update

Presented to the Rhode Island Marine Fishery Council

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Executive Summary

This report summarizes the Rhode Island Division of Marine Fisheries analyses of the summer flounder and black sea bass pilot aggregate landing program that ran in the summer and fall from 2019-2022. The major goals and concerns related to the pilot program are outlined and addressed throughout this report. Numerous assessment metrics as well as the methods used to analyze each metric are presented. Significant areas of interest regarding the aggregate program included fishing effort (days at sea), catch rates and their relationship with quota utilization, market impacts, and how the summer flounder exemption certificate may relate to the aggregate program in future years.

The overall number of permitted participants in the pilot program increased from 2019 through 2022. While participating in the pilot program, individual harvesters tended to fish total fewer days compared to the years prior to the pilot program. These fewer days at sea may be correlated with increased safety, reduced fuel costs, and improved vessel maintenance. Total available quota is a primary factor for overall fishery performance, including early closures. This was true in years with and without the pilot program operational. No year of the pilot program indicated outliers in the relationship between total available quota and closed days compared with pre-pilot program years. However, quota simulation modeling indicates that if participation were high in a statewide aggregate program, fleetwide catch rates may increase and potentially lead to more closed days. A complimentary report detailing structured interviews with program participants found that “based on the interviews conducted in 2021 and 2022, participant perceptions of the pilot aggregate program were overwhelmingly positive, with some neutral comments (i.e., no changes or improvements relative to past fishing activity), and one negative comment (a concern about potential impacts to the summer flounder quota). All interviewees expressed a desire to stay in the program, depending on its future format, but most noted that they simply wanted to see the program continue in some form.” The final section of this report overviews the summer flounder exemption certificate and its relationship with the pilot program. Across three years of the pilot program, vessels that held a summer flounder exemption certificate fished more total trips with higher fluke landings and a higher percentage of their trips with higher fluke landings than those vessels without an exemption certificate. If the summer flounder exemption certificate requirement had not been exempted for the pilot program, numerous trips would have resulted in a higher percentage of regulatory discards.

1. Overview

For years, discussions on aggregate programs have garnered interest from the summer flounder, or fluke (*Paralichthys dentatus*), and black sea bass (*Centropristis striata*) commercial fisheries in Rhode Island. The weekly aggregate model has been used for fluke during a winter sub-period (January through April) since the 1990s, for black sea bass during a winter sub-period (January through April) since 2016, scup have been managed using a weekly aggregate limit for many years, and a weekly or bi-weekly aggregate approach has been used for bluefish since 2015. The commercial quotas for fluke and black sea bass have traditionally been managed through season-specific quotas, changes in possession limits throughout the year, and in some cases closures during certain days of the week. Both fluke and black sea bass are targeted by a large proportion of the RI commercial fleet (particularly in summer) due to their high demand and relatively high prices at dealers. As such, the daily possession limit of both species is generally low with state quota allocations also dictating limits. Given the variability of fish

stocks, low quotas, and subsequently low possession limits, combined with rising fuel prices, vessel maintenance costs, safety at-sea concerns, and global pandemics, fisheries managers are striving to provide more flexible fishing programs to the fishing industry.

It is hypothesized that an aggregate program would provide fishermen with greater flexibility in fishing practices through the utilization of a weekly possession limit instead of a daily limit. Such a program could potentially decrease operating costs and increase safety by reducing the number of days at sea. Aggregate programs could also decrease regulatory discards, and thus, discard mortality in some fisheries, especially at times when possession limits are low by reducing the total number of fishing trips. A reduction in number of fishing trips could mean less deployment of mobile gears resulting in less impacts to bottom habitat. Finally, improved operating flexibility could also reduce over harvest that can result from daily limits.

However, there have been stated concerns from the commercial industry in RI that aggregate programs may: 1) favor select businesses depending on how they operate; 2) increase catch rates, which can lead to quicker quota consumption resulting in shorter fishing seasons; 3) affect variability in timing of landings that could affect market prices; and 4) lead to an increase in illegal fishing activity due to the potential difficulties in accountability and enforceability. How such an aggregate program may affect fishing and dealer behavior, and the mechanisms to manage and enforce the program are largely untested.

At the recommendation of commercial fishing industry representatives and to address these concerns, the Rhode Island Department of Environmental Management (RIDEM) Division of Marine Fisheries (DMF) brought forth a proposal for a pilot fluke and black sea bass aggregate program (hereafter 'pilot program') to the Rhode Island Marine Fisheries Council (RIMFC) in the fall of 2018, which resulted in the adoption of the pilot aggregate program via a new rule in January 2019. The goal of the pilot program was to collect data to assess the effects of aggregate possession limits on harvest rates for fluke and black sea bass from May 1 to December 31.

2. Program Assessment

This report addresses the major goals and concerns related to the pilot program as available data allows. While some of the goals and potential issues of a weekly possession limit can be quantifiably measured through commercial fisheries reporting data, other aspects such as regulatory discards, generalized fishing practices, undetected illicit fishing, and economics can only be assessed qualitatively at this time. Major goals and concerns of an aggregate program addressed in this report include:

- Days at Sea – Days at sea, which is correlated with safety, fuel cost, and vessel maintenance is quantitatively measured by total number of trips taken by aggregate vessels before and during the program (Section 3). This metric is also qualitatively assessed through structured interviews with participants (Section 5).
- Catch Rates – Catch rates and its relationship with quota utilization are assessed quantitatively in Sections 4.1 and 4.2. Additionally, theoretical quota utilization simulation modeling is presented in Section 4.3.
- Regulatory Discards – Discards are assessed qualitatively through structured interviews with participants (Section 5). Because discards are an optional reporting metric, data are sparse and considered generally inaccurate fleetwide, therefore precluding quantitative assessment.

- Market Impacts – In particular, price of fish is considered an important metric for assessment of an aggregate program. No detailed economic model was used to assess impacts of aggregate fishing trips on market price for fluke and black sea. Market impacts are addressed qualitatively through structured interviews with participants (Section 5). Additional information is available within that report from dealer perceptions of the aggregate program.
- Illegal Fishing Activity – Enforcement issues are not discussed as part of this RI DMF report. It is noted that the RI DEM Division of Law Enforcement has continually expressed support for this program and their ability to effectively enforce rules related to the program at various workshops, public hearings, and council meetings. This support is bolstered by the program requirements for active vessel monitoring system (VMS) devices and electronic reporting prior to each landing event.
- Summer Flounder Exemption Certificate – The summer flounder exemption certificate is a unique issue to RI with regards to a weekly aggregate program for that species. The implications of either requiring or excluding the necessity of a summer flounder exemption certificate to land more than 200 lbs. per day is discussed in Section 6. The requirement for a summer flounder exemption certificate to land more than 200 lbs. per trip was excluded for pilot program participants.

3. Participation

When the pilot program was initiated in 2019, the DMF deemed it important to include a range of different commercial fishing gear types to determine how gear types used impacted fishing behavior and catch rates. Gear types included: trawl, gill net, fish pot, rod and reel, lobster pot, and ‘multigear’. In 2019 the program was open to three vessels per gear type, which was doubled to six vessels per gear type for 2020 and 2021, and then eliminated in 2022 in an attempt to increase total participation. In 2022 participation was increased to 53 vessels which accommodated every vessel that applied to the pilot program (59 vessels were permitted, but only 53 of those participated). Not every vessel issued a permit participated in the program in any given year.

It should be noted that as RI does not issue ‘gear specific’ commercial fishing licenses. As such, limiting access to an aggregate program by fishing gear type would likely be considered to be both discriminatory and regulatorily infeasible.

Table 1. Total number of participants in the pilot program by year. More permits may have been issued in a given year, but some vessels may not have participated in the aggregate program while permitted (opt-out).

Year	Number of Participants
2019	12
2020	30
2021	30
2022	53

3.1 Fishing Trips

Fishing effort, measured in fishing trips per program year (May 1- December 31), by permit holders varied widely throughout the term of the pilot program. Data shows that some participants increased fishing effort, while others reduced their total days at sea. There are numerous interactive variables that may concurrently effect fishing effort including, but not limited to, fish price, fuel price, weekly limits, vessel condition, harvester health, weather, operational changes, and other work and family conflicts. Because of all these complicating factors, generalized information about trips by year is presented, but all other caveats should be considered when viewing this data.

Figures 1-4. Total number of trips taken by pilot program participants before (2014-2018) and during the pilot program. Because pilot program participation varied annually, each respective pilot year is considered individually. In other words, the 2019 figure compares the total number of trips taken by year of only those fishermen who were participants in 2019. Likewise, the 2020 figure compares the total number of trips taken by year of only those fishermen who were participants in 2020, and excludes data from 2019 because during that year, some 2020 participants fished in the pilot program, while others were not yet permitted in the program. Across all years, the median trips per participant were lower in pilot years than in years prior to the pilot program.

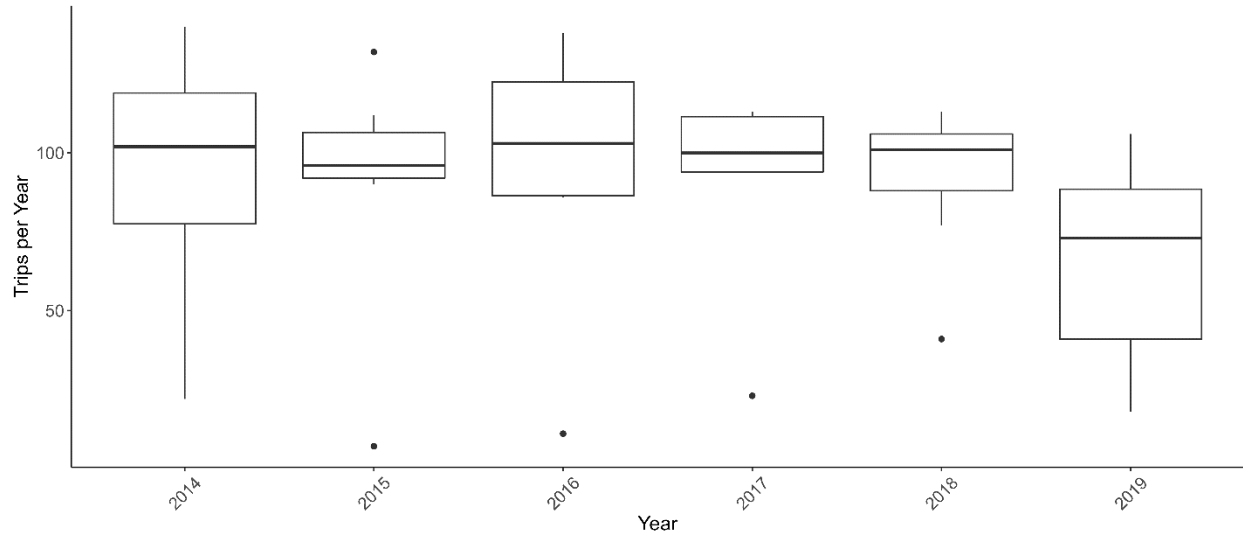


Figure 1. Boxplot of fishing trips by year of 2019 aggregate program participants.

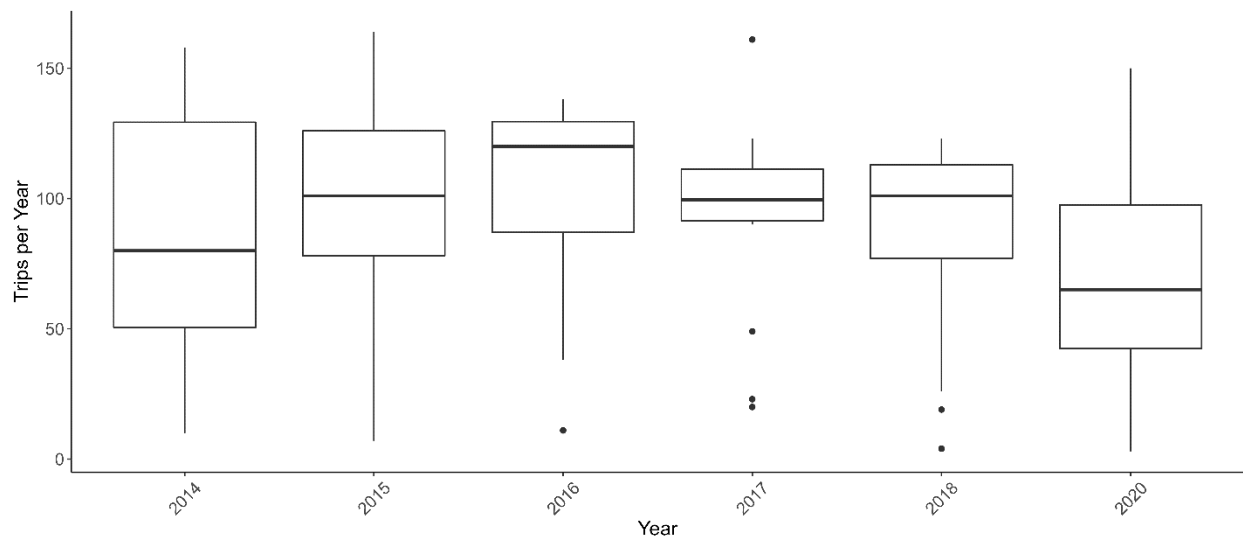


Figure 2. Boxplot of fishing trips by year of 2020 aggregate program participants.

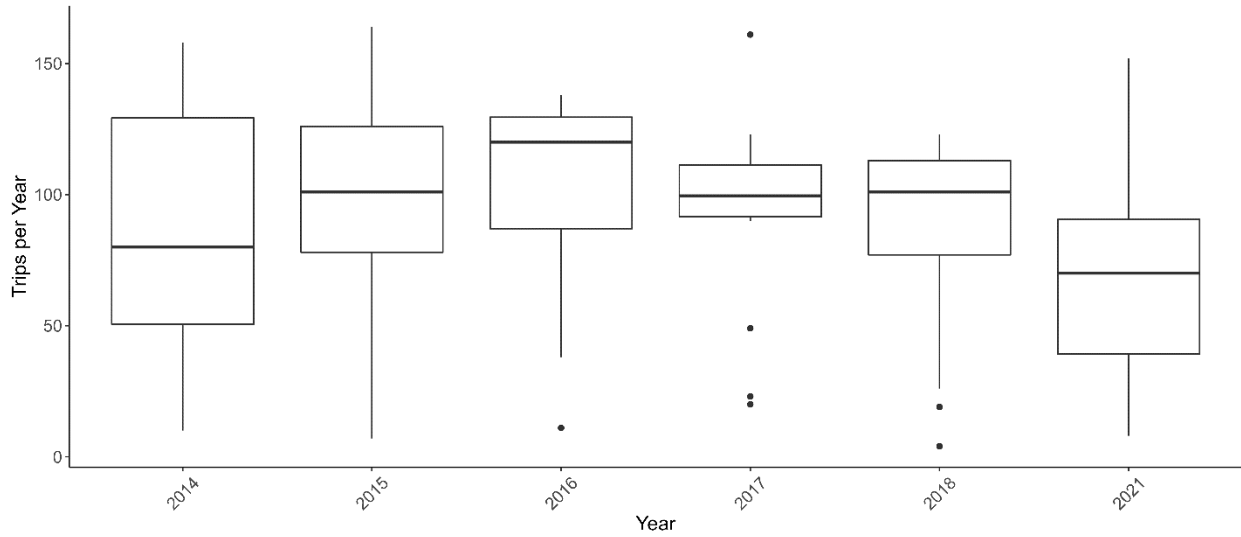


Figure 3. Boxplot of fishing trips by year of 2021 aggregate program participants.

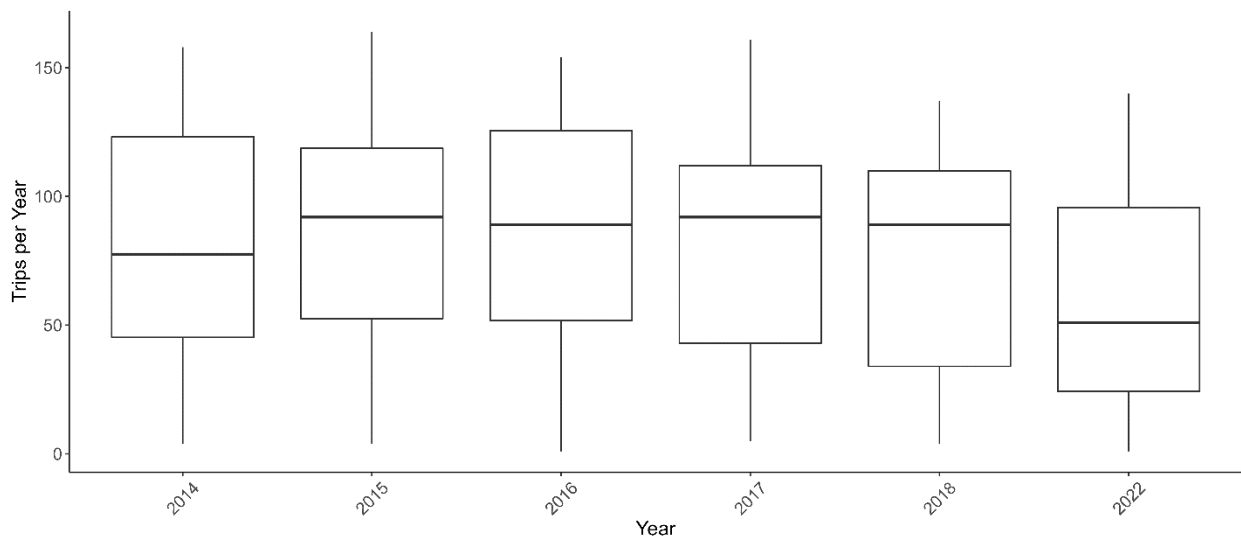


Figure 4. Boxplot of fishing trips by year of 2022 aggregate program participants.

4. Quota Utilization

Total available subperiod allocations vary based on the annual state apportioned quota available through the Atlantic States Marine Fisheries Commission allotted to RI, as well as the percentage of that total allocation assigned to each subperiod through the regulatory process. To assess the pilot program's potential impact on RI quota and catch rates for fluke and black sea, several data streams were analyzed. Section 4.1 outlines fleetwide quota utilization in the years preceding and during the pilot program. Section 4.2 overviews gear type specific catch rates from 2019-2021 for pilot program

participants. Section 4.3 includes results from a quota utilization simulation that was run using results from the first few years of the program (2019-2021).

4.1 Fleetwide Quota Utilization

Total available quota is a primary factor for overall fishery performance, including early closures. This was true in years with and without the pilot program.

A table and plot are provided for fluke and black sea bass respectively, illustrating the relationship between final subperiod allocation and total closed days within a subperiod. Tables are conditionally formatted to highlight gradients of high to low allocations and few to many closed days respectively.

Table 2. Fluke final subperiod allocations and total closed days by year and subperiod. Final subperiod allocations are formatted in a red-green scale with relatively high pound allocations in green and low pound allocations in red. Total closed days are formatted with relatively few closed days in green and many days in red.

Year	Subperiod	Final Period Allocation (lbs)	Did it close early?	Total Closed Days
2014	May 1 - Sept 15	578466	No	0
2014	Sept 16 - Dec 31	181820	Yes	6
2015	May 1 - Sept 15	615801	No	0
2015	Sept 16 - Dec 31	211844	No	0
2016	May 1 - Sept 15	444227	No	0
2016	Sept 16 - Dec 31	172467	No	0
2017	May 1 - Sept 15	315379	Yes	30
2017	Sept 16 - Dec 31	76963	Yes	48
2018	May 1 - Sept 15	370131	No	0
2018	Sept 16 - Dec 31	184299	Yes	3
2019	May 1 - Sept 15	662688	No	0
2019	Sept 16 - Dec 31	298193	No	0
2020	May 1 - Sept 15	736281	No	0
2020	Sept 16 - Dec 31	432547	No	0
2021	May 1 - Sept 15	682418	No	0
2021	Sept 16 - Dec 31	471103	No	0
2022	May 1 - Sept 15	847835	No	0
2022	Sept 16 - Dec 31	570163	No	0

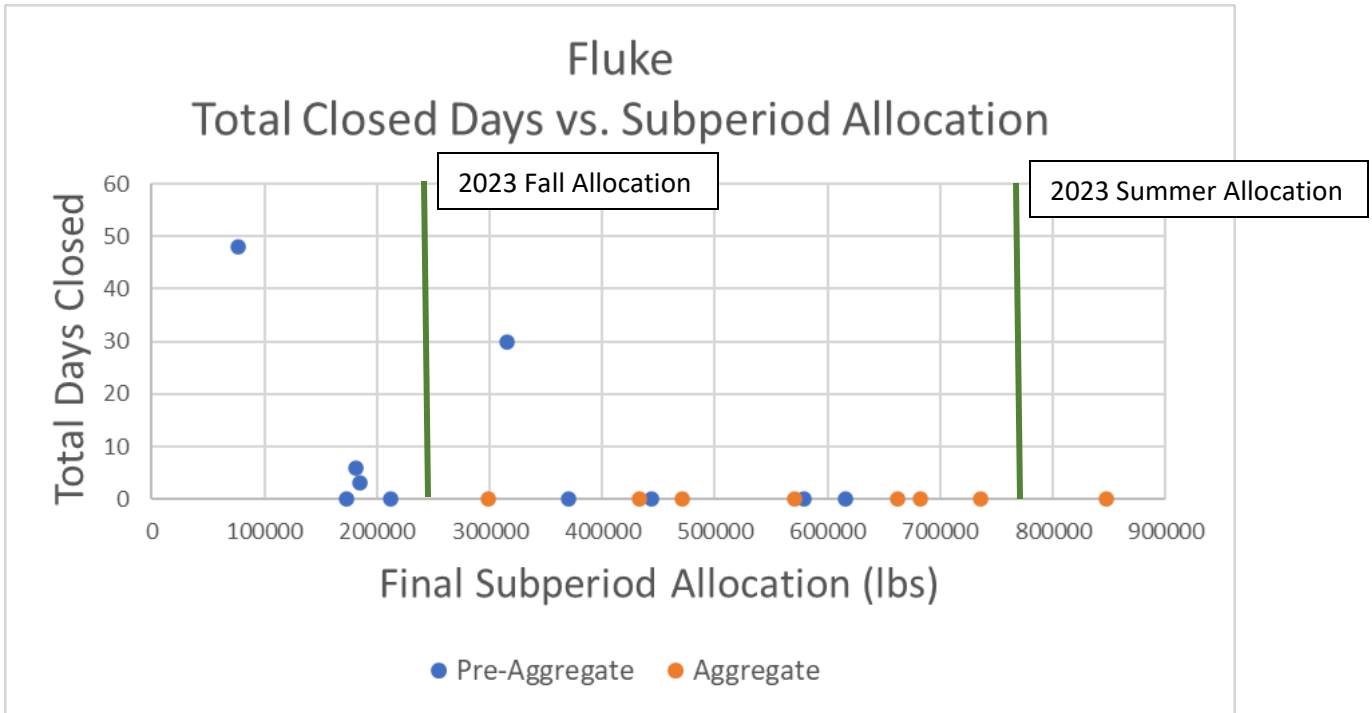


Figure 5. Relationship for fluke between final subperiod allocation and total days closed, 2014-2022. Years prior to the pilot program are blue and years during the program are orange. 2023 subperiod allocations are vertical green lines.

Table 3. Black sea bass final subperiod allocations and total closed days by year and subperiod. Final subperiod allocations are formatted in a red-green scale with relatively high pound allocations in green and low pound allocations in red. Total closed days are formatted with relatively few closed days in green and many days in red.

Year	Subperiod	Final Period Allocation (lbs)	Did it close early?	Total Days Closed
2014	May 1- Jun 30	58920	Yes	28
2014	July 1 - July 31	46433	Yes	18
2014	Sept. 1 - Oct. 31	42508	Yes	37
2014	Nov 1 - Dec 31	16731	Yes	49
2015	May 1- Jun 30	61294	Yes	30
2015	July 1 - July 31	42647	Yes	24
2015	Sept. 1 - Oct. 31	46322	Yes	38
2015	Nov 1 - Dec 31	19673	Yes	53
2016	May 1- Jun 30	75514	Yes	31
2016	July 1 - July 31	58547	Yes	22
2016	Sept. 15 - Oct. 31	52458	Yes	35
2016	Nov 1 - Dec 31	26170	Yes	52
2017	May 1- Jun 30	113611	Yes	25
2017	July 1 - July 31	90739	Yes	15
2017	Sept. 15 - Oct. 31	95395	Yes	19
2017	Nov 1 - Dec 31	87404	No	0
2018	May 1- Jun 30	102105	Yes	14
2018	July 1 - July 31	79879	Yes	14
2018	Sept. 15 - Oct. 31	73104	Yes	29
2018	Nov 1 - Dec 31	41062	No	0
2019	May 1- Jun 30	93750	Yes	20
2019	July 1 - July 31	66471	Yes	16
2019	Sept. 15 - Oct. 31	72489	Yes	34
2019	Nov 1 - Dec 31	14371	Yes	51
2020	May 1- Jun 30	178098	No	0
2020	July 1 - July 31	127776	No	0
2020	Sept. 15 - Oct. 31	139559	No	0
2020	Nov 1 - Dec 31	126818	No	0
2021	May 1- Jun 30	155198	Yes	3
2021	July 1 - July 31	129912	No	0
2021	Sept. 15 - Oct. 31	61501	No	0
2021	Nov 1 - Dec 31	55475	No	0
2022	May 1- Jun 30	208222	No	0
2022	July 1 - Aug 15	218270	No	0
2022	Aug 16 - Sept 15	105056	No	0
2022	Sept 16 - Oct 15	109475	No	0
2022	Oct 16 - Dec 31	153641	No	0

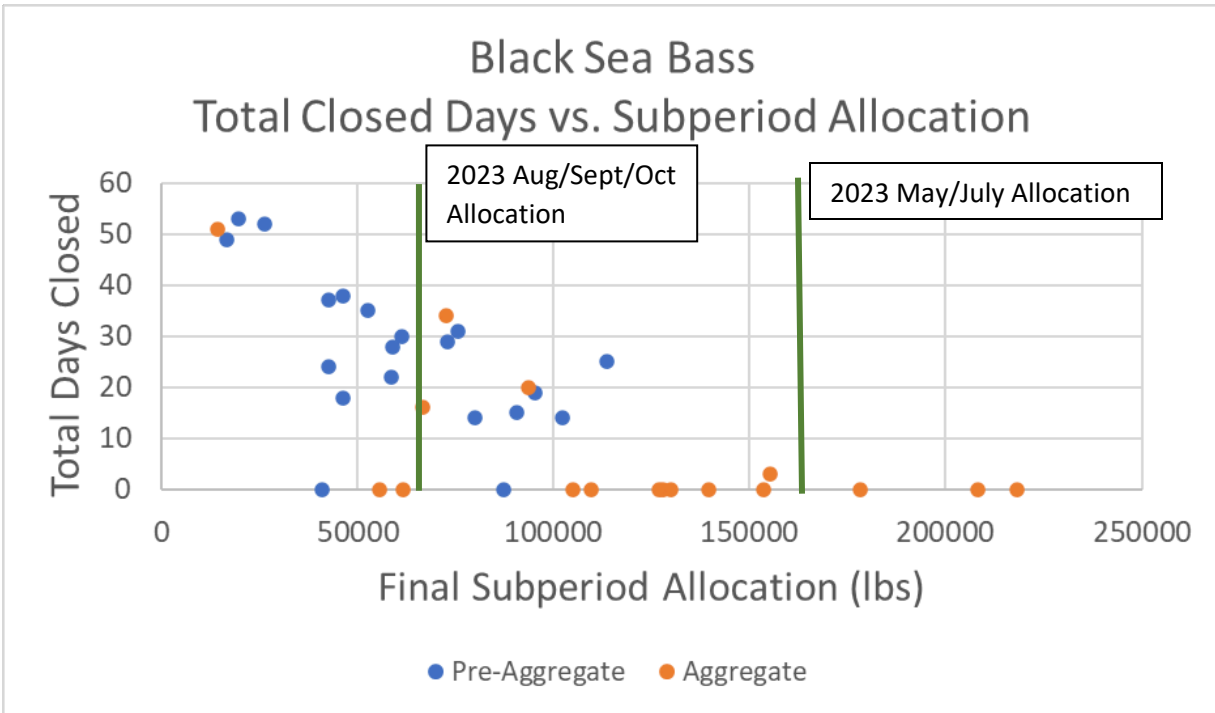


Figure 6. Relationship for black sea bass between final subperiod allocation and total days closed, 2014-2022. Years prior to the pilot program are blue and years during the program are orange. 2023 subperiod allocations are vertical green lines.

4.2 Pilot Program Gear Type Catch Rates

There was high variability in participation of harvesters in the pilot program; some utilized the program more extensively than others. When examining catch rates, increases in fluke catch were primarily attributable to trawlers (Figure 7). Captains utilizing other gear types generally remained within the range of total annual fluke catch they had landed before participating in the pilot program. Data for both the Section 4.2 gear type catch rate analysis and Section 4.3 quota simulation modeling has not been updated with 2022 data. An initial analysis of the 2022 pilot program catch data indicated it would not change our inferences about either gear type specific catch rates or quota simulation projections.

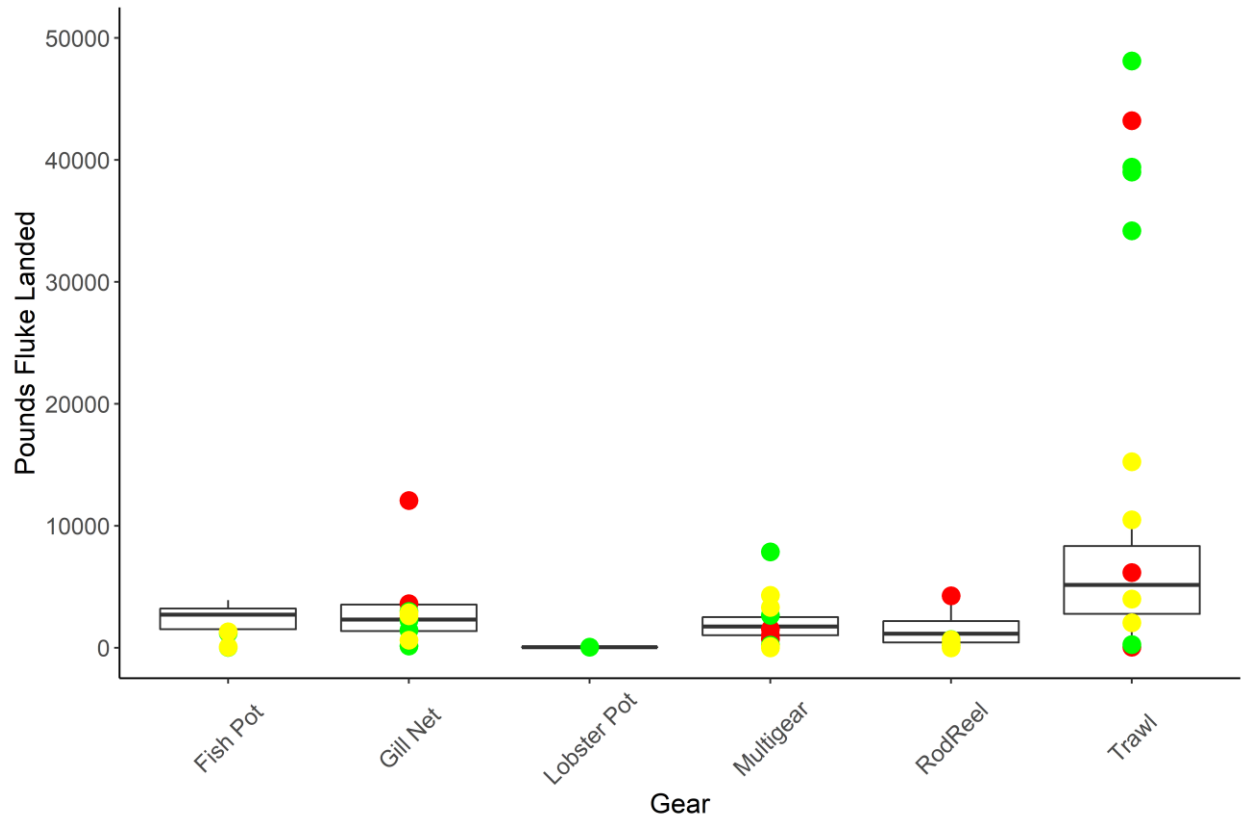


Figure 7. Historic and pilot program fluke landings (pounds) of pilot program participants. Box and whisker plots represent summarized catch (May-December) from 2014-2018 for all participants by respective gear type. Dots represent catch from 2019 (red), 2020 (green), and 2021 (yellow) for each respective captain. Note that 2021 data are partial year catch through August 2021. Dots above the box and whisker plots show catch above historic rates.

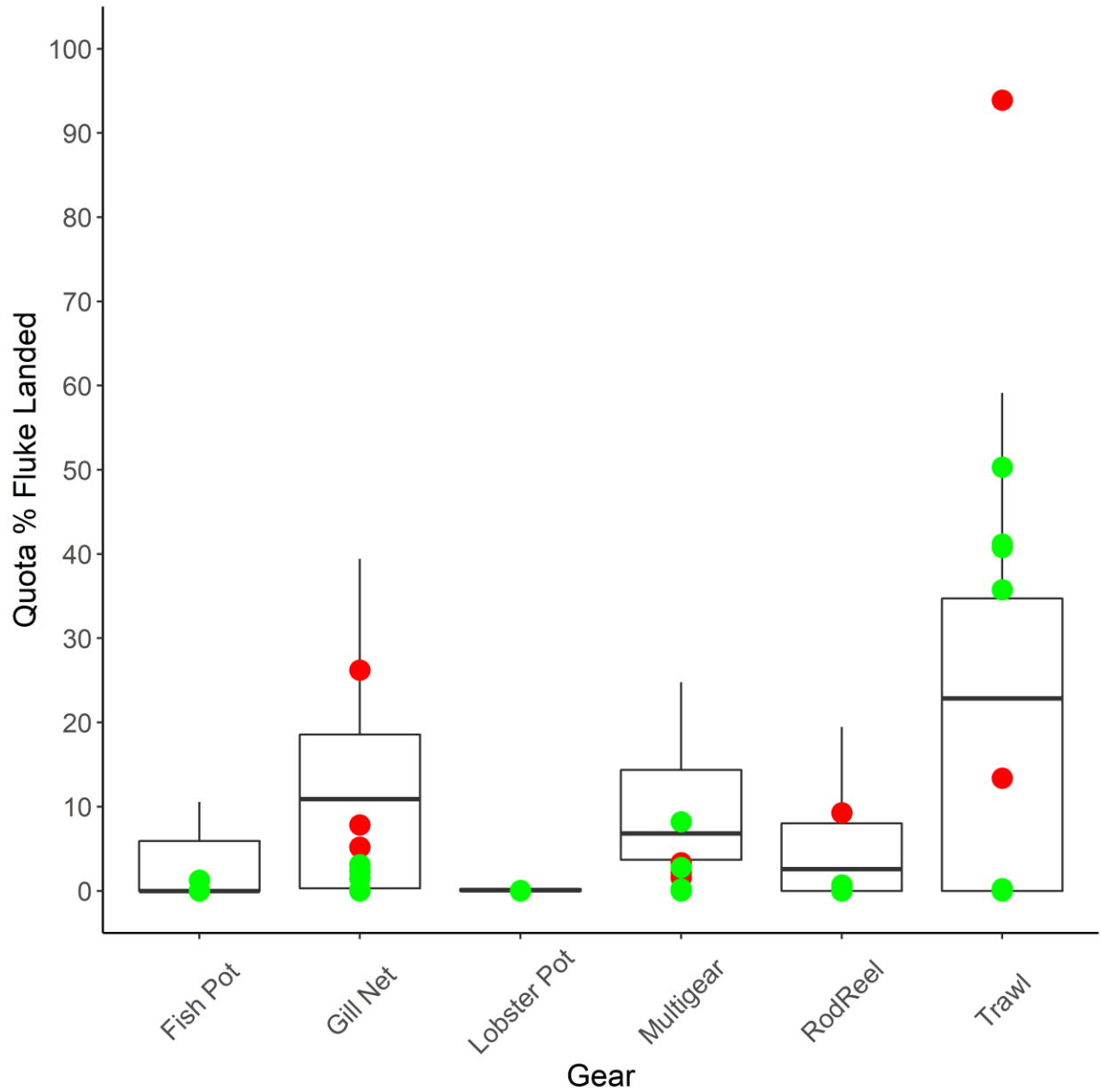


Figure 8. Historic and pilot program fluke landings (% of total available quota harvested) of pilot program participants. Box and whisker plots represent summarized catch (May-December) from 2014-2018 for all participants by respective gear type. Dots represent catch from 2019 (red) and 2020 (green) for each respective captain. Dots above the box and whisker plots show catch above historic rates.

However, increases in black sea bass catch were found across all gear types.

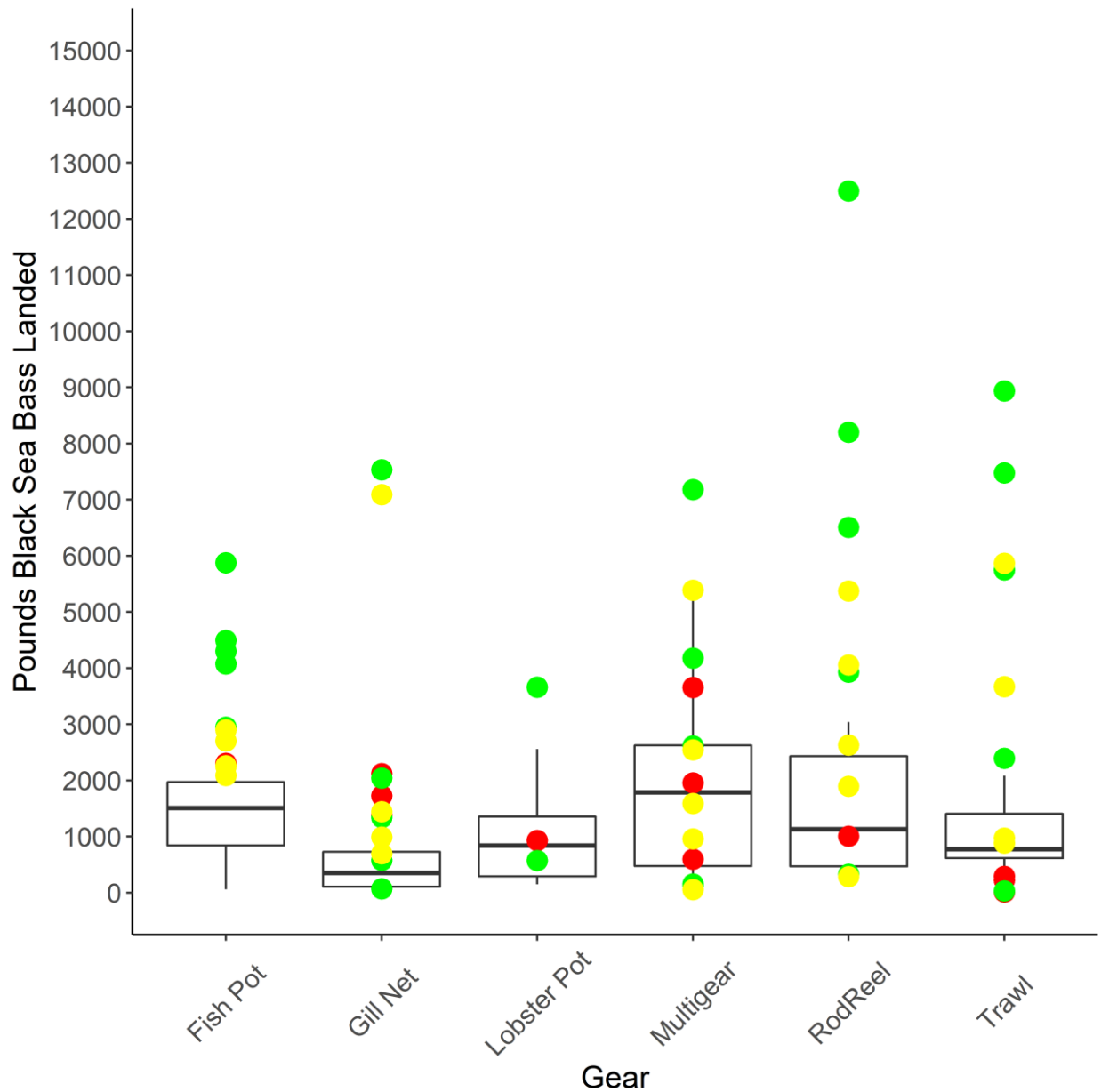


Figure 9. Historic and pilot program black sea bass landings (pounds) of pilot program participants. Box and whisker plots represent summarized catch (May-December) from 2014-2018 for all participants by respective gear type. Dots represent catch from 2019 (red), 2020 (green), and 2021 (yellow) for each respective captain. Note that 2021 data are partial year catch through August 2021. Dots above the box and whisker plots show catch above historic rates.

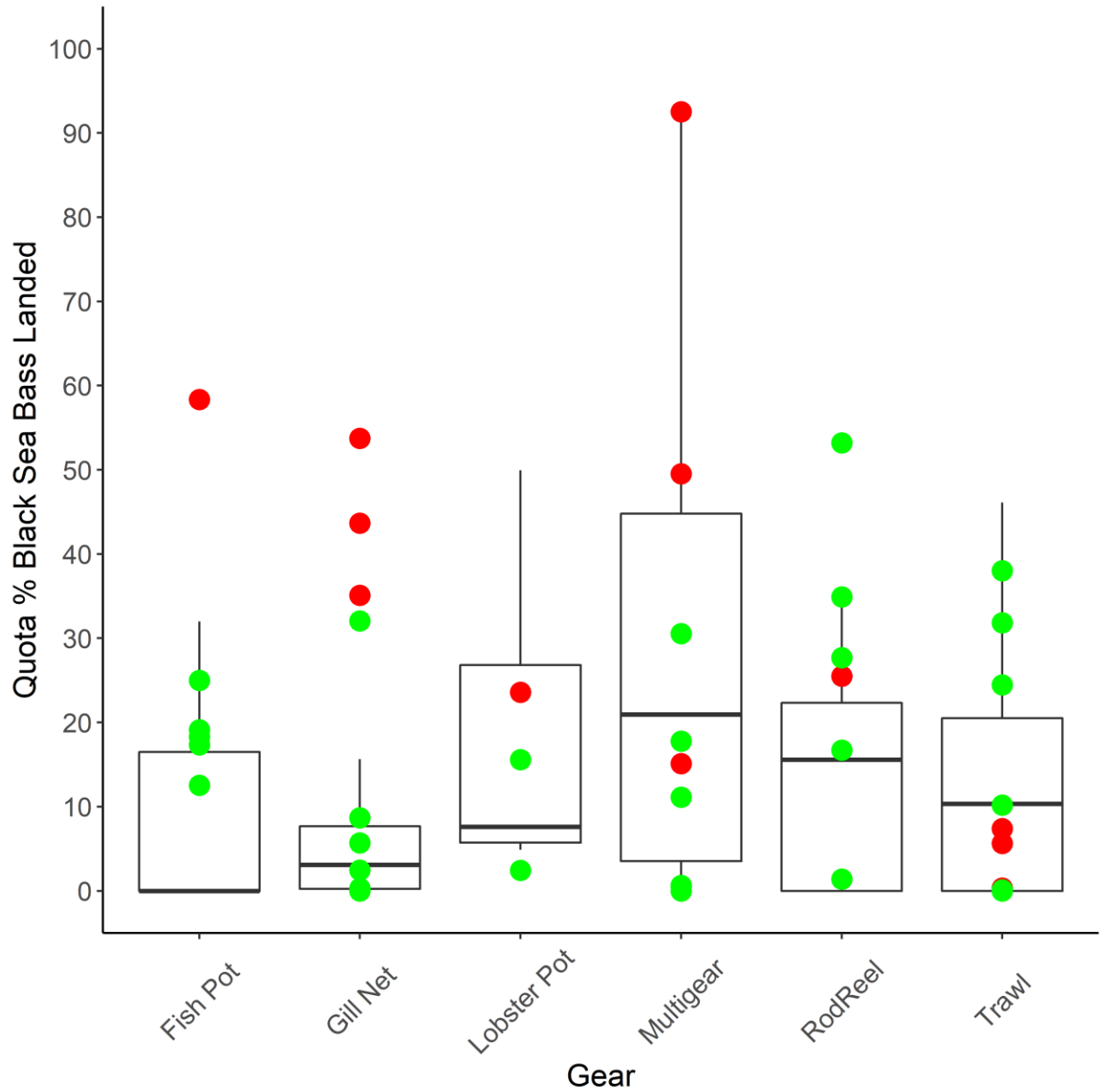


Figure 10. Historic and pilot program black sea bass landings (% of total available quota harvested) of pilot program participants. Box and whisker plots represent summarized catch (May-December) from 2014-2018 for all participants by respective gear type. Dots represent catch from 2019 (red) and 2020 (green) for each respective captain. Dots above the box and whisker plots show catch above historic rates.

4.3 Quota Tracking Simulation

4.3.1 Overview

Quota tracking simulations were run to compare historic catch rates of summer flounder and black sea bass to projected catch rates under a weekly aggregate possession limit. Data used for simulations presented in this report include two years of RI fleet data (May-December 2019 and 2020) and two and a half years of aggregate landings (May-December 2019 and 2020; May-August 2021). One hundred unique simulations were run for each scenario. The mean catch (weight) of each respective species for each week was calculated. The following simulations were run to cover a range of potential management scenarios for both summer flounder and black sea bass:

- Whole fleet fishing weekly aggregate from May 1 – December 31
- Whole fleet fishing weekly aggregate + 3 standard deviations of simulation mean catch weight (e.g., whole fleet-high effort year)
- Whole fleet fishing weekly aggregate – 3 standard deviations of simulation mean catch weight (e.g., whole fleet-low effort year)
- 50% of fleet fishing weekly aggregate (e.g., captains must choose between opting into summer or fall season [fluke], other 50% adheres to daily limits)
- Whole fleet fishing weekly aggregate *except* current winter aggregate captains (e.g., forced to choose between opting in to winter or summer/fall – all winter aggregate captains choose to stay in winter season)
- 50% of fleet fishing weekly aggregate *except* current winter aggregate captains (e.g., captains must choose between opting into summer or fall season [fluke] but current winter aggregate captains opt to stay in winter season and do not fish aggregate during summer/fall)
- Whole fleet fishing weekly aggregate *except* trawlers (trawlers adhere to daily limits)
- Whole fleet fishing aggregate at 75% historic quota limit
- Whole fleet fishing aggregate at 50% historic quota limit
- Whole fleet fishing aggregate at 25% historic quota limit
- Whole fleet fishing aggregate for first two weeks of allocation period, then reverting to daily limits after those two weeks

Given the relatively few number of participants in the pilot program from 2019 through 2021 (~30), uncertainties due to COVID related market issues, and changes in fleet composition over time, all results carry high uncertainty. Results from these simulations indicate that simulations produce ‘worst case scenarios’ for catch. Pilot program participant landing data from 2022, when participation was highest, indicated that the simulation models presented here generate much higher catch rates than would actually occur.

4.3.2 Methods

At the broadest level, simulations were run by replacing historic reported catch from the entire RI fishing fleet with a random catch from the pilot program fishing fleet. Catch is matched by species, gear type, and season. Gear types are generalized into five categories: trawl, rod and reel, gillnet, fish pots, and lobster pots. While multi-gear participants were included in the pilot program, their individual catch is treated gear specifically for modeling purposes. Seasons are broken down into summer (May-September) and fall (October-December). As an example, for an individual captain, the total fluke catch

from a week of trips from May 2014 caught in an otter trawl would be replaced, randomly, with a week of total fluke catch from an aggregate captain from 2019, 2020, or 2021 who fished with an otter trawl during the summer months. Likewise, a historic weekly catch of black sea bass by a captain from October 2017 in a fish pot would be replaced with a weekly catch of black sea bass from an aggregate captain from 2019, 2020, or 2021 who fished with fish pots during fall months. These replacement catches are randomly selected from the matching pool and may be higher or lower than the original historic catch. If the replacement catch exceeds the historic weekly limit that it is replacing, that value is reduced to match the historic weekly limit. This is done to adjust for historic fishing regulations. To provide an upper limit estimate for catch, summer flounder exemption certificate daily limits are used for all captains simulated, even those who did not have exemption certificates historically.

4.3.3 Results

Fishing rates (pounds of catch per trip) and total catch increased under nearly all* full quota scenarios for both species under all simulation scenarios compared. Comparing simulation scenarios, the whole fleet fishing with a weekly aggregate limit at a high rate resulted in the greatest catch rate while the 25% quota and 50% of the fleet with no winter I aggregate program captains scenario resulted in the lowest catch among simulations and therefore the longest open allocation periods (seasons). Effectively all aggregate scenarios resulted in earlier closures, for each respective species, than occurred historically.

The simulation model is more effective at forecasting fluke than black sea bass. Because calculations are done on weekly catch, and the catch rate compared to available quota is so high for black sea bass it is often difficult to infer where weekly closures would have occurred.

*- a single fluke scenario resulted in slightly reduced catch rate compared with historic catch

Fluke

The following tables show the number of days fluke was closed for each subperiod and compares it with the projected number of days that the fishery would have been closed under each respective simulation scenario. Results are broken down by allocation period and year. Within each summary table green indicates fewer closed days while red indicate more closed days.

Fluke Summer Simulations -

Table 4. Historic and simulated days closed for summer flounder for the summer season from 2014-2020. Scenarios with a greater number of closed days within an allocation are highlighted in red, while those with fewer closed days are highlighted in green.

Year	Time Period	Final Period Allocation (lbs)	Did it close early?	Total Days Closed	25% Quota	50% Fleet + No Wint Agg	Whole Fleet No Trawlers	50% Quota	2 Week Start Agg	No Wint Agg	50% Fleet	-3SD Whole Fleet	75% Quota	Mean Whole Fleet	+3SD Whole Fleet
2014	May 1 - Sept 15	578466	No	0	0	16	37	9	37	51	51	44	44	58	65
2015	May 1 - Sept 15	615801	No	0	0	0	0	0	3	17	31	24	31	52	59
2016	May 1 - Sept 15	444227	No	0	0	0	0	0	0	5	5	5	0	19	33
2017	May 1 - Sept 15	315379	Yes	30	30	30	30	30	30	30	30	30	30	41	55
2018	May 1 - Sept 15	370131	No	0	0	0	0	0	0	0	0	0	0	14	21
2019	May 1 - Sept 15	662688	No	0	0	0	0	0	0	0	0	0	0	29	36
2020	May 1 - Sept 15	736281	No	0	0	0	0	0	0	0	0	0	3	17	31

Fluke Fall Simulations -

Table 5. Historic and simulated days closed for summer flounder for the fall season from 2014-2020. Scenarios with a greater number of closed days within an allocation are highlighted in red, while those with fewer closed days are highlighted in green.

Year	Time Period	Final Period Allocation (lbs)	Did it close early?	Total Days Closed	25% Quota	50% Fleet + No Wint Agg	Whole Fleet No Trawlers	50% Quota	2 Week Start Agg	No Wint Agg	50% Fleet	-3SD Whole Fleet	75% Quota	Mean Whole Fleet	+3SD Whole Fleet
2014	Sept 16 - Dec 31	181820	Yes	6	6	25	39	32	67	60	67	74	67	81	81
2015	Sept 16 - Dec 31	211844	No	0	0	0	0	40	33	40	54	75	61	75	82
2016	Sept 16 - Dec 31	172467	No	0	0	0	7	28	14	35	49	56	56	70	77
2017	Sept 16 - Dec 31	76963	Yes	48	48	48	50	57	64	71	71	78	71	78	85
2018	Sept 16 - Dec 31	184299	Yes	3	3	3	3	30	23	30	51	58	58	65	72
2019	Sept 16 - Dec 31	298193	No	0	0	0	0	17	0	3	24	24	38	45	59
2020	Sept 16 - Dec 31	432547	No	0	0	0	0	0	0	0	5	0	12	26	40

Table 6. Summary of days closed for fluke (summer and fall seasons combined) across all scenarios, 2014-2020. The 'mean annual days closed' column shows an average of how many days the fishery is closed under different simulations. The 'percent of historic' column shows how many days the fishery remained open for each simulation compared with what actually happened in a given allotment period. Table is sorted ascending by mean total days closed.

Scenario	Mean Annual Days Closed	Percent of Historic
Historic	6	
25% Quota	6	100
50% Fleet + No Winter Agg	9	98
Whole Fleet No Trawlers	12	95
50% Quota	17	90
2 Week Start Agg	19	89
No Winter Agg	24	84
50% Fleet	31	78
-3SD Whole Fleet (Low Effort)	33	77
75% Quota	34	76
Mean Whole Fleet	48	64
+3SD Whole Fleet (High Effort)	57	56

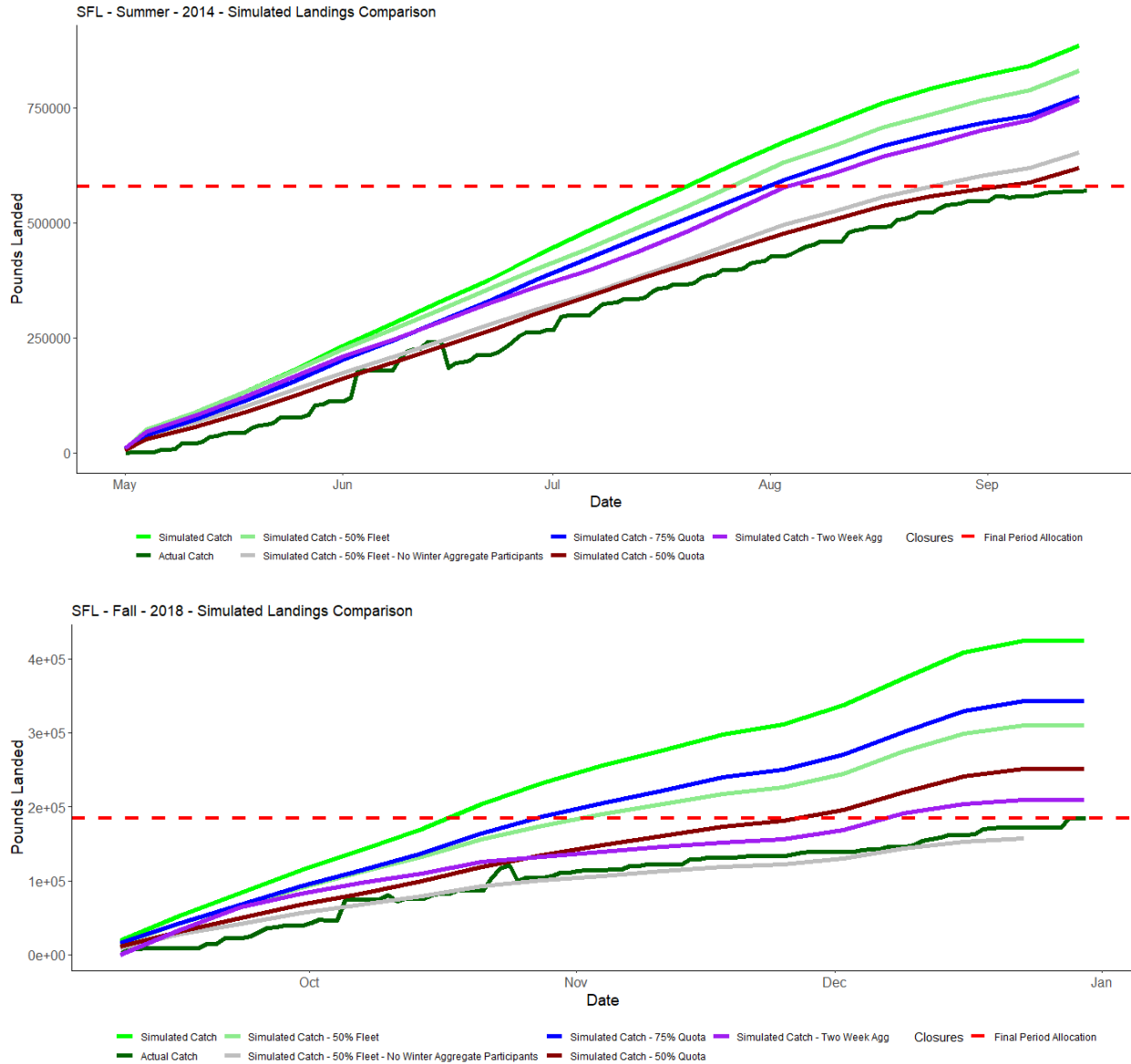


Figure 11. Example quota tracking plots for fluke displaying the true historic catch (dark green) and various simulation results. For simulations, each line represents the mean of 100 unique simulation runs. The horizontal red dashed line shows the final period allocation. The top plot shows data for the summer season in 2014. The bottom plot shows the fall season for 2018.

Black Sea Bass September Simulations -

Table 9. Historic and simulated days open for black sea bass in the month of September from 2014-2020. Scenarios with a greater number of open days within an allocation are highlighted in green, while those with fewer open days are highlighted in red.

Year	Time Period	Final Period Allocation (lbs)	Did it close early?	Total Days was actually open	25% Quota	50% Quota	50% Fleet + No Wint Agg Days Open	2 Week Start Agg	50% Fleet Days Open	-3SD Whole Fleet Days Open	75% Quota	Whole Fleet No Trawlers	No Wint Agg Days Open	Mean Whole Fleet Days Open	+3SD Whole Fleet Days Open	
2014	Sept. 1 - Oct. 31	42508	Yes	37	37	40	40	40	40	40	40	40	40	40	40	
2015		46322	Yes	38	40	40	40	40	40	40	40	40	40	40	40	
2016		52458	Yes	35	35	33	40	40	40	40	40	40	40	40	40	
2017		95395	Yes	19	19	19	19	19	19	19	19	19	26	26	33	
2018		73104	Yes	29	29	29	33	40	40	40	40	40	40	40	40	
2019		72489	Yes	34	34	34	40	40	40	40	40	40	40	40	40	
2020		139559	No	0	0	12	12	12	19	19	19	19	19	19	19	26

Black Sea Bass November Simulations -

Table 10. Historic and simulated days open for black sea bass in the month of November from 2014-2020. Scenarios with a greater number of open days within an allocation are highlighted in green, while those with fewer open days are highlighted in red.

Year	Time Period	Final Period Allocation (lbs)	Did it close early?	Total Days was actually open	25% Quota	50% Quota	50% Fleet + No Wint Agg Days Open	2 Week Start Agg	50% Fleet Days Open	-3SD Whole Fleet Days Open	75% Quota	Whole Fleet No Trawlers	No Wint Agg Days Open	Mean Whole Fleet Days Open	+3SD Whole Fleet Days Open	
2014	Nov 1 - Dec 31	16731	Yes	49	49	54	54	54	54	54	54	54	54	54	54	
2015		19673	Yes	53	53	53	54	54	54	54	54	54	54	54	54	
2016		26170	Yes	52	52	52	54	54	54	54	54	54	54	54	54	
2017		87404	No	0	0	0	0	0	0	0	0	0	0	19	33	
2018		41062	No	0	0	26	19	47	26	26	40	40	40	40	47	47
2019		14371	Yes	51	51	54	54	54	54	54	54	54	54	54	54	54
2020		126818	No	0	0	0	0	0	0	0	0	0	12	26	19	40

Table 11. Summary of total days open for black sea bass (May, July, September, November seasons combined) across all scenarios, 2014-2020. Table is sorted descending by total days open.

Scenario	Mean Days Closed per Year	Percent of Historic
Historic	23	
25% Quota	23	98
50% Quota	29	80
50% Fleet + No Winter Agg	30	74
2 Week Start Agg	31	71
50% Fleet	32	68
-3SD Whole Fleet (Low Effort)	32	67
75% Quota	32	66
Whole Fleet No Trawlers	34	62
No Winter Agg	34	59
Mean Whole Fleet	36	55
+3SD Whole Fleet (High Effort)	38	47

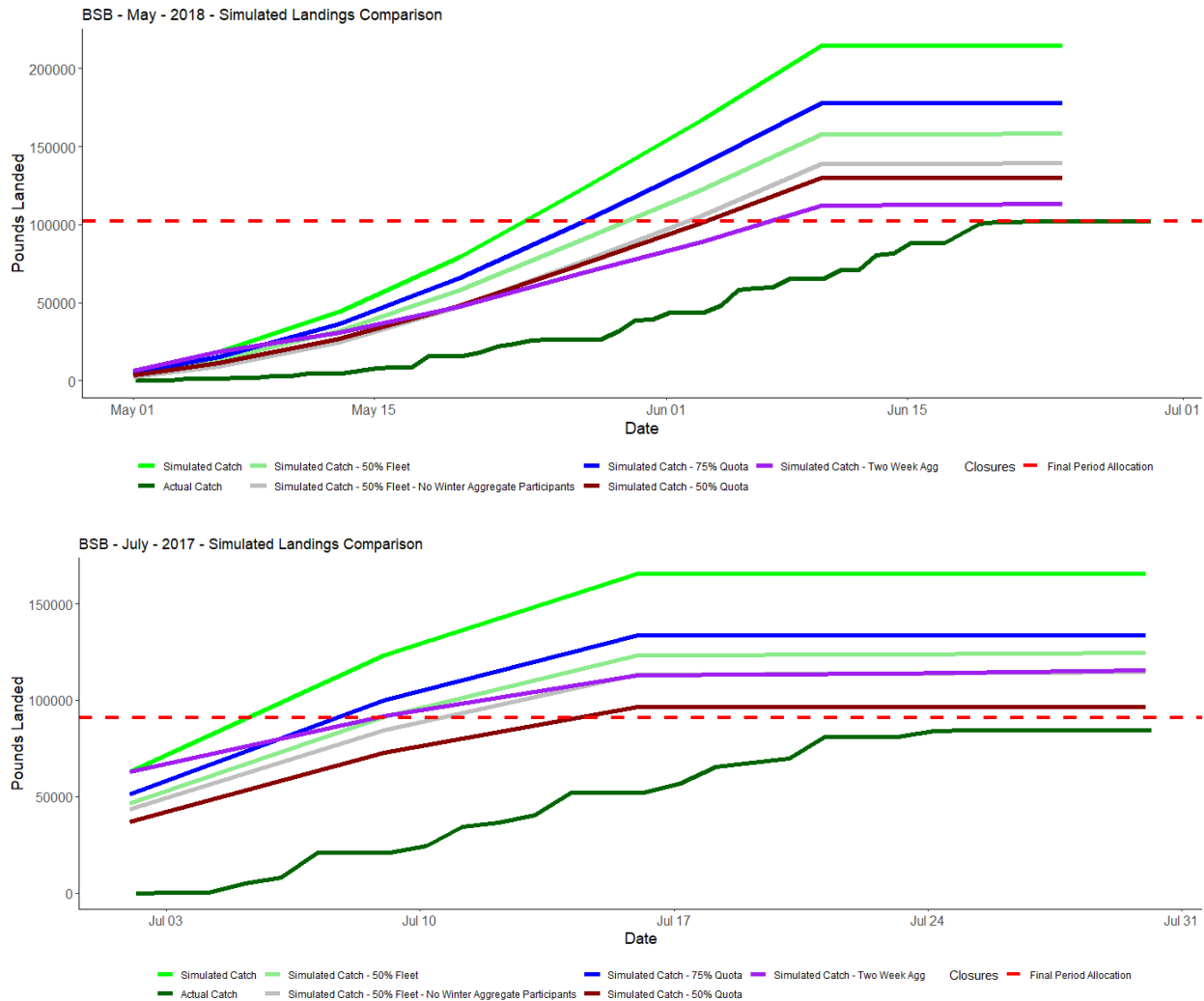


Figure 12. Example quota tracking plots for black sea bass displaying the true historic catch (dark green) and various simulation results. For simulations, each line represents the mean of 100 unique simulation runs. The horizontal red dashed line shows the final period allocation. The top plot shows data for the May allotment period in 2018. The bottom plot shows the allotment period for the month of July in 2017. Simulation runs do not start at zero because the model uses weekly timeframes as opposed to daily.

5. Input From Program Participants

An extensive and systematic assessment of the pilot program was conducted by RI DMF Deputy Chief Julia Livermore for the fishing years 2019-2021. That report is attached to this council packet and can also be found online at: https://dem.ri.gov/sites/g/files/xkgbur861/files/2022-08/Pilot_Aggregate_Report.pdf.

In summary: “Based on the interviews conducted in 2021 and 2022, participant perceptions of the pilot aggregate program were overwhelmingly positive, with some neutral comments (i.e., no changes or

improvements relative to past fishing activity), and one negative comment (a concern about potential impacts to the summer flounder quota). All interviewees expressed a desire to stay in the program, depending on its future format, but most noted that they simply wanted to see the program continue in some form.”

The structured interviews also touch upon ‘intangibles’ related to the pilot program that are not assessed elsewhere in this report. These include topics like flexibility in fishing practices and its relationship to matters like family time, mental health, and overall employment/financial status.

6. Summer Flounder Exemption Certificate

As part of the pilot program, the requirement for the program permitted vessel to hold a summer flounder exemption certificate to land >200lbs of fluke per day was suspended. This exception allowed the Division to determine more accurately the impact a larger scale aggregate program may have on fluke quota, as well as differences in fishing practices between summer flounder exemption certificate holding vessels and those without.

The relationship between the summer flounder exemption certificate and landings of pilot program participants is shown in Tables 12-14. Across the years 2020-2022, summer flounder weekly possession limits were always greater than 700 lbs. Therefore, the regulations allowed for a pilot program participant to harvest up to at least 700 lbs of fluke on their first day of fishing within a week. Across three years of the pilot program, vessels that held a summer flounder exemption certificate fished more total trips with higher fluke landings and a higher percentage of their trips with higher fluke landings than those vessels without an exemption certificate. If the summer flounder exemption certificate requirement had not been exempted for the pilot program, numerous trips would have resulted in a higher percentage of regulatory discards (assuming the same trips were made with or without the fluke exemption certificate exclusion for program participants). In 2020 (Table 12), 43 trips made by vessels not holding the certificate (7% of all their trips) exceeded 200 lbs. In 2021 (Table 13), 62 trips made by vessels not holding the certificate (9% of all their trips) exceeded 200 lbs. In 2022 (Table 14), 127 trips made by vessels not holding the certificate (19% of all their trips) exceeded 200 lbs.

Table 12. Fluke landings by pilot program participants in 2020 delineated by vessels with and without summer flounder exemption certificates. Trips highlighted in orange indicate landings that would have been capped at 200 lbs. if a certificate were required to land >200 lbs.

Pounds Landed	2020			
	Fluke Cert		No Fluke Cert	
	# of Trips	% of Trips	# of Trips	% of Trips
101-200	75	16%	129	20%
201-300	54	12%	24	4%
301-400	17	4%	13	2%
401-500	22	5%	3	<1%
501-600	14	3%	1	<1%
601-700	10	2%	1	<1%
>700	30	7%	1	<1%

Table 13. Fluke landings by pilot program participants in 2021 delineated by vessels with and without summer flounder exemption certificates. Trips highlighted in orange indicate landings that would have been capped at 200 lbs. if a certificate were required to land >200 lbs.

Pounds Landed	2021			
	Fluke Cert		No Fluke Cert	
	# of Trips	% of Trips	# of Trips	% of Trips
101-200	42	8%	87	13%
201-300	33	6%	27	4%
301-400	15	3%	6	1%
401-500	29	6%	29	4%
501-600	8	2%	0	0%
601-700	8	2%	0	0%
>700	31	6%	0	0%

Table 14. Summer flounder landings by pilot program participants in 2022 delineated by vessels with and without summer flounder exemption certificates. Trips highlighted in orange indicate landings that would have been capped at 200 lbs. if a certificate were required to land >200 lbs.

Pounds Landed	2022			
	Fluke Cert		No Fluke Cert	
	# of Trips	% of Trips	# of Trips	% of Trips
101-200	49	11%	70	11%
201-300	54	13%	40	6%
301-400	27	6%	19	3%
401-500	12	3%	17	3%
501-600	10	2%	9	1%
601-700	15	4%	13	2%
>700	52	12%	29	4%

250-RICR-90-00-12

TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 90 – MARINE FISHERIES

SUBCHAPTER 00 – N/A

PART 12 – Research Pilot Aggregate Program

12.1 Purpose

The purpose of the program is to establish a pilot program to authorize aggregate possession limits for commercial black sea bass and summer flounder as a means to gather data on the effect of aggregate limits in the commercial management of these species.

12.2 Authority

These Rules and Regulations are promulgated pursuant to R.I. Gen. Laws Title 20, R.I. Gen. Laws Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with R.I. Gen. Laws § 42-35-18(b)(5), Administrative Procedures Act, as amended.

12.3 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.

12.4 Definitions and General Provisions

See ~~Rhode Island Marine Fisheries Regulations~~, Part 1 of this Subchapter.

12.5 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.

12.6 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 these Regulations 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.

12.7 Permit Required

A permit issued from the Director is required to participate in this program. Permit applications shall be completed on forms as prescribed by the Director. Applications not completed in their entirety shall not be considered.

12.8 Eligibility

- A. Applicants must hold a valid commercial fishing license in Rhode Island and be the owner and/or operator of a vessel that is licensed to harvest and land summer flounder and black sea bass in State waters and must remain so licensed through ~~2022~~2023.
- B. Applicant vessels must have a historical record of landing summer flounder and black sea bass as recorded in SAFIS for a minimum of one (1) year.
- C. A maximum of fifty-nine (59) permits will be issued. If the number of eligible applicants exceeds the number of permits available, applicants will be selected through a lottery process.
- D. Applicant vessels shall agree to install a Division-approved vessel monitoring system (VMS) device on their vessel. The cost of such vessel monitoring device shall be the responsibility of the participant.
- E. Applicant vessels shall agree to submit catch and effort information through a Division-approved electronic application. The cost of such application shall be the responsibility of the participant.
- F. Applicant vessels shall agree to allow the Department to publicly disclose all landings of summer flounder and black sea bass on a single-vessel resolution basis.
- G. Applicant vessels shall agree to take any State or Federally authorized observers at any time.
- H. Application period: Applications must be received by April 1, ~~2022~~2023. In the event that less than fifty-nine (59) applications are received by April 1, ~~2022~~2023, the Division may opt to re-open a subsequent application period to consider additional applications.
- I. Applicants must be in compliance with commercial fishing data reporting requirements pursuant to Part [2](#) of this Subchapter.

12.9 Permit Conditions

- A. Vessel monitoring system devices and reporting applications shall be maintained in operational order and be actively engaged at all times when fishing. Malfunctioning of any device will result in permit suspension until the device is returned to operational order.
- B. Participants shall document catch and effort information in the Division approved electronic application prior to each landing event.
- C. Participating vessels shall take any State or Federally authorized observers at any time.
- D. Participants and participating vessels must adhere to all applicable Rules and Regulations governing commercial fishing operations, including but not limited to mesh size restrictions, offloading hours, at-sea transfers, and reporting and record-keeping requirements.
- E. Participants and participating vessels will be subject to all State and Federal small mesh landing levels for summer flounder when fishing with small mesh.
- F. Participants and participating vessels are authorized to fish south of the Southern New England DDAS counting area for summer flounder when properly enrolled in the Small Mesh Exemption Program.
- G. Permits are non-transferable. Only vessels authorized by the Director may participate in the pilot program.
- H. Permits will be valid from May 1, ~~2022~~2023, through December 31, ~~2022~~2023, unless otherwise terminated.
- I. This program is considered an exempted program pursuant to section 14.8 of this subchapter.

12.10 Possession Limits

- A. Summer flounder: The weekly aggregate possession limit will be equal to the daily limit multiplied times seven (7).
- B. Black sea bass: The weekly aggregate possession limit will be equal to the daily limit multiplied times five (5).
- C. Permit holders are obligated to abide by the aggregate possession limits until such a time the permit is terminated.
- D. Permit holders may forfeit their permit and terminate participation in the program at any time.

- E. The weekly periods for the duration of the program will be issued explicitly by the Division to each participant. Alternate weekly periods will not be authorized.
- F. At any time during any sub-period for either species, the Division may terminate the program to prevent an early closure.
- G. Possession limits will revert back to a daily limit once 80% of the sub-period quota for each species is projected to have been reached.

12.11 Penalties for Non-Compliance

- A. Failure to adhere to any of the terms and conditions will result in permit revocation for the remainder of the pilot program duration.
- B. Participating vessels which cease to participate, or are expelled from, the program will be prohibited from harvesting and landing summer flounder and black sea bass in an aggregate amount for the remainder of the pilot program duration.
- C. If a participant exceeds their weekly aggregate limit for either species, or if the participating vessel is found to be in violation of any of the terms and conditions set forth in these Regulations, the participant's permit will be revoked and will be subject to potential enforcement action, including but not limited to: confiscation of catch, prohibition on the harvest and landing of summer flounder and black sea bass for the remainder of the year, license and/or permit suspension or revocation, fines, and disqualification from participation in any future alternative management programs. All penalty provisions applicable to violations of marine fisheries laws and Regulations will also be applicable to participants in the pilot program.

12.12 Term of Program

These Regulations will remain in effect through ~~2022~~2023 only, after which it will be subject to review and evaluation, with a view to developing recommendations for continuance of program beyond ~~2022~~2023.

250-RICR-90-00-14

TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 90 – MARINE FISHERIES

SUBCHAPTER 00 – N/A

PART 14 – Summer Flounder Exemption Certificate Program

14.1 Purpose

The purpose of these Regulations is to ~~authorize a program which will assist with the management of~~ the commercial summer flounder fishery.

14.2 Authority

These Rules and Regulations are promulgated pursuant to R.I. Gen. Laws Title 20, R.I. Gen. Laws Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with R.I. Gen. Laws Chapter 42-35, Administrative Procedures Act.

14.3 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.

14.4 Definitions and General Provisions

See Part [1](#) of this Subchapter.

14.5 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.

14.6 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 these Regulations 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.

14.7 General

- A. The Summer Flounder Exemption Certificate (Exemption Certificate) will be issued only ~~to~~for a vessel. The vessel owner will be identified on the Exemption Certificate for the purpose of maintaining vessel owner contact information.
- B. Exemption Certificates may not be:
 - 1. Pledged, mortgaged, leased, or encumbered in any way;
 - 2. Transferred with any retained right of repossession or foreclosure, or any condition requiring a subsequent transfer; or
 - 3. Attached, distrained, or sold on execution of judgment.
- C. Notice of change of address: Whenever a person owning a vessel issued an Exemption Certificate, or in possession of an Exemption Certificate in Confirmation of Certificate Status (CCS), shall move from the address specified on their last certificate application, that person shall, within ten (10) days subsequent to moving, notify the Division of Coastal Resources of their new address.
- D. ~~Any a~~Application ~~made pursuant to these regulations~~for an Exemption Certificate shall be made on forms as prescribed by the Director.

14.8 Applicability

- A. ~~No person shall~~Authorizes the possession or landing of summer flounder in ~~excess of an amount greater than two three~~ hundred (~~200~~300) pounds per vessel or per person per day, ~~unless that person holds a valid Exemption Certificate or exempted program permit established pursuant to this Chapter. An Exemption Certificate authorizes a vessel to possess and land greater than two hundred (200) pounds of summer flounder per vessel per day~~ provided that:
 - 1. The current Rhode Island possession limit for summer flounder is greater than ~~two three~~ hundred (~~200~~300) pounds per vessel per day; and
 - 2. The vessel's operator holds a valid Rhode Island commercial fishing license or landing permit to harvest or land summer flounder.

14.9 Eligibility

No new Exemption Certificates will be available for issuance. ~~All valid certificates are eligible for renewal pursuant to these regulations.~~

14.10 Exemption Certificate Expiration and Renewal

- A. Exemption Certificates shall be valid until December 31, 2025, at which time the certificate shall expire unless application for renewal is received by the [renewal](#) application deadline.
- B. Application required: Renewal applications shall contain the following information:
1. Vessel name;
 2. Vessel owner;
 3. USCG documentation/State registration number;
 4. Federal permit number or Rhode Island commercial fishing license number, that authorizes the harvest or landing of summer flounder;
 5. Vessel Length Overall (LOA);
 6. Vessel Gross Registered Tonnage (GRT);
 7. Vessel Horsepower.
 8. Hailing Port.
 9. Notary signature and stamp.
- C. Renewal application deadline:
1. Notice of certificate expiration and renewal requirement will be mailed to the person and mailing address on file with the Department no later than October 1, 2025.
 2. Renewal applications must be received by the Department or postmarked by December 31, 2025 to be considered for renewal.
 3. For any vessel sale/transfer that takes place during the renewal application period, ninety (90) days from the date of sale/transfer will be allowed to renew the Exemption Certificate.
- D. If application for an Exemption Certificate renewal is denied, the applicant may appeal the denial to the Administrative Adjudication Division for Environmental Matters pursuant to R.I. Gen. Laws § 42-17.7-1 *et seq.* and the procedures set forth in Part [10-00-1](#) of this Title, Rules and Regulations for the Administrative Adjudication Division.

14.11 Transfer of an Exemption Certificate

14.11.1 General

- A. An Exemption Certificate may only be transferred upon change in vessel ownership or upon vessel replacement. Any vessel replacement or change in vessel ownership requires a transfer application to be submitted to the Department and new certificate issued to be valid.
- B. If no transfer approval occurs at time of change in vessel ownership or upon vessel transfer, the Exemption Certificate shall not be valid until such time that a transfer application is submitted and a new certificate issued.

14.11.2 Change in Vessel Ownership

- A. **Applicability:** Any change in vessel ownership shall require application to the Department for an Exemption Certificate transfer. No Exemption Certificate transfer is valid unless approved by the Director.
- B. **Application required:**
 - 1. Application shall include a written agreement signed by the transferor/seller and transferee/buyer, or other credible written evidence, verifying that the transferor/seller is retaining the vessel's fishing and permit history for purposes of changing vessel owner.
 - 2. Validation of vessel ownership is required and shall be determined solely by the valid (unexpired) US Coast Guard documentation or State registration issued.
- C. An Exemption Certificate may only be transferred to a vessel or replacement vessel that possesses a valid USCG documentation and/or valid State registration and is commercially declared pursuant to Part 2 of this subchapter.

14.11.3 Vessel Replacement

- A. **Applicability:** Any change in vessel shall require application to the Department for such transfer. No transfer is valid unless approved by the Director.
- B. **Application required:**
 - 1. Application shall include a written agreement, or other credible written evidence, that must be signed by the vessel transferor/seller and vessel transferee/buyer, verifying that the vessel transferor/seller is retaining the Exemption Certificate for the purpose of replacing the vessel.

2. The vessel owner must prove that the applicant vessel is replacing a vessel and that the Exemption Certificate is only applicable to the vessel for which the Exemption Certificate has been transferred.
3. The Exemption Certificate shall only be transferred to another vessel with a USCG vessel documentation/State registration number and State commercial vessel declaration.
4. The Exemption Certificate must be applied to a replacement vessel owned by the seller/transferee within five (5) years of approval of application.

C. Confirmation of certificate status:

1. If a vessel owner severs the Exemption Certificate from a vessel, the vessel owner may elect to apply to the Department for Confirmation of Certificate Status (CCS).
 - a. CCS allows the maintenance of the certificate history without it being attached to a vessel.
 - b. Application for CCS must be made on forms provided by the Director.
2. Application to the DEM must be made to take an Exemption Certificate out of CCS.
 - a. The Exemption Certificate must be applied to a vessel within five (5) years of approval of application for CCS.
 - b. An Exemption Certificate shall be authorized to remain in CCS for a period not greater than five years, after five (5) years, the Exemption Certificate shall be deemed invalid if not applied to a vessel.
 - c. Exemption Certificates in CCS are subject to the renewal requirements as specified in these Regulations.

14.11.4 Change in Exemption Certificate Holder While in CCS

- A. Applicability: Any change in Exemption Certificate holder shall require application to the Department for an Exemption Certificate transfer. No Exemption Certificate transfer is valid unless approved by the Director.
- B. Application required:
 1. Application shall include a written agreement signed by the transferor/transferee and transferor/transferee, or other credible written

evidence, verifying that the transferor/transferee is transferring the Exemption Certificate only with no vessel attached.

2. Proof of a valid certificate issued to the transferor is required and shall be determined by the documentation issued by the Department.
- C. Exemption Certificates transferred while in CCS are still bound to the original five (5) year period established when the Exemption Certificate entered CCS status.

250-RICR-90-00-7

TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 90 – MARINE FISHERIES

SUBCHAPTER 00 – N/A

PART 7 – Dealers

7.1 Purpose

The purpose of these regulations is to efficiently manage the marine resources of Rhode Island.

7.2 Authority

These Rules and Regulations are promulgated pursuant to R.I. Gen. Laws Title 20, R.I. Gen. Laws Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with R.I. Gen. Laws § 42-35-18(b)(5), Administrative Procedures Act, as amended.

7.3 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.

7.4 Definitions

See Definitions and General Provisions, Part [1](#) of this Subchapter.

7.5 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.

7.6 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 these Regulations 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.

7.7 Applicability

- A. No person shall sell, purchase, barter or trade in any marine fisheries species unless having first obtained a dealer's license from the Director.
- B. Any person engaged solely in the business of selling seafood to consumers, either directly or through restaurants or other retail outlets, and/or engaged solely in the processing or preparation of seafood, for sale directly to consumers, is not required to be licensed under these Regulations, provided that such person purchases or otherwise acquires said seafood from a dealer.
- C. A licensed dealer may transport any marine species otherwise subject to the requirement that a person transporting such marine species carry a Rhode Island commercial fishing license, provided that the dealer can demonstrate by a bill of lading that the fish in question had been sold by a duly licensed person.

7.8 General Provisions

- A. Application for a Dealer's License shall be made on forms as prescribed by the Director and contain such information as the Department may require. Applications not completed in their entirety shall not be considered.
- B. A license must be signed and sworn to by the party to whom it is issued in order to be valid.
- C. All fees must have been paid for the license to be valid.
- D. Licenses are valid only for the signed license holder and may not be transferred.
- E. A lost or accidentally destroyed license may be replaced for a reprint fee of ten dollars (\$10.00), provided that the applicant submits an affidavit to the Department explaining the circumstances of the loss.
- F. Notice of change of address. Whenever a license holder moves from the address named in his or her last application, that person shall, within ten (10) days subsequent to moving, notify the Office of Boat Registration and Licensing of his or her former and current address.
- G. The license is valid only for the calendar year in which it is issued. Submittal of an application for a new license does not extend the validity of any expired license.
- H. License renewal: No application for a license renewal will be accepted from a licensee who has failed to submit reports pursuant to this Part.

7.9 Finfish Dealer License

- A. Applicability: Authorizes the sale, purchase, barter or trade of all wild finfish species that may legally be landed in Rhode Island, but only in the amounts specified by Rule. Licensed finfish dealers may also buy and sell cultured finfish species in accordance with applicable Rules and Regulations.
- B. Eligibility: Applicants must demonstrate that they or their registered agent maintain a fixed place of business in the State of Rhode Island at which transaction records will be maintained and made available for inspection during normal business hours.

7.10 Shellfish Dealer License

- A. Applicability: Authorizes the sale, purchase, barter, or trade in wild or cultured shellfish that have been:
 - 1. Harvested from or cultured in Rhode Island waters from licensed shellfishermen, licensed aquaculturists, or other shellfish dealers; or,
 - 2. Harvested from waters outside of Rhode Island from a dealer whose shellfish business appears on the U.S. Food and Drug Administration Interstate Certified Shellfish Shippers List (ICSSL), and tagged in accordance with the National Shellfish Sanitation Program (NSSP) Model Ordinance and Rhode Island Department of Health Regulations, Processing and Distribution of Shellfish ([216-RICR-50-10-6](#)).
- B. Eligibility: Applicants must demonstrate that they or their registered agent maintain a fixed place of business in the State of Rhode Island at which transaction records will be maintained and made available for inspection during normal business hours.
- C. General Requirements
 - 1. Shellfish dealers may not purchase or accept any wild or cultured shellfish from a shellfisherman or aquaculturist without first being presented with a valid commercial fishing license or Aquaculture license issued by DEM.
 - 2. Shellfish dealers must also possess a DOH shellfish business license pursuant to Rhode Island Department of Health Regulations, Processing and Distribution of Shellfish ([216-RICR-50-10-6](#)).
 - 3. Shellfish dealers shall maintain a record of transaction for all sales of shellfish. The following information shall be maintained at the dealer's place of business and be available for inspection by the Director:
 - a. Seller's name;

- b. Seller's commercial fishing license number;
 - c. Seller's date of birth;
 - d. Harvest tagging area where shellfish were harvested;
 - e. Quantity of shellfish purchased;
 - f. Species landed;
 - g. Purchase price;
 - h. Date and time of transaction;
 - i. Signature of seller;
 - j. For transactions of shellfish cultured on an aquaculture lease, the dealer shall maintain complete, accurate and legible records sufficient to document the source of shellfish and permit the contents of the container of shellfish to be traced back to the aquaculture lease site and date of harvest. All transactions shall be recorded by DEM and DOH by a method approved by DEM and DOH.
4. Shellfish harvested from or cultured in Rhode Island waters may only be sold to out-of-State dealers by shellfish dealers whose businesses appear on the U.S. Food and Drug Administration Interstate Certified Shellfish Shippers List (ICSSL) and are licensed with DOH.
 5. Shellfish harvested from or cultured in other than Rhode Island waters may only be sold to dealers in or from Rhode Island by out-of-State dealers whose businesses appear on the U.S. Food and Drug Administration Interstate Certified Shellfish Shippers List (ICSSL).
 6. A dealer may possess undersize cultured shellfish crops, excluding bay quahaugs, provided the dealer has obtained said cultured crops from an aquaculturist or dealer.
 7. Wet storage of shellfish: No person shall engage in land-based wet storage (as defined in the NSSP ~~2015~~ Model Ordinance, which is incorporated herein by reference) of molluscan shellfish without prior written authorization from DOH. Open-water wet storage (as defined in the NSSP Model Ordinance) is prohibited.
 8. Dealer handling of shellfish: Dealers shall comply with the NSSP Model Ordinance and Rhode Island Department of Health Regulations, Processing and Distribution of Shellfish ([216-RICR-50-10-6](#)).

9. Dealer tagging of shellfish: Dealers shall comply with the NSSP Model Ordinance and Rhode Island Department of Health Regulations, Processing and Distribution of Shellfish ([216-RICR-50-10-6](#)). Dealer tagging is not required for surf clams or ocean quahaugs for use as bait and not for human consumption, however at a minimum must be labeled and/or designated as bait in a method approved by DEM and DOH.

7.11 Crustacean Dealer License

- A. Applicability: Authorizes the sale, purchase, barter or trade of all wild crustacean species, including lobster, that may legally be landed in Rhode Island, but only in the amounts specified by Rule. Licensed lobster dealers may also sell cultured crustacean species in accordance with applicable Rules and Regulations.
- B. Eligibility: Applicants must demonstrate that they or their registered agent maintain a fixed place of business in the State of Rhode Island at which transaction records will be maintained and made available for inspection during normal business hours.

7.12 Multipurpose Dealer License

- A. Applicability: Authorizes the sale, purchase, barter or trade of all wild marine fisheries species that may legally be landed in Rhode Island, but only in the amounts specified by Rule. Licensed multi-purpose dealers may also buy and sell cultured marine fisheries species in accordance with applicable Rules and Regulations.
- B. Eligibility: Applicants must demonstrate that they or their registered agent maintain a fixed place of business in the State of Rhode Island at which transaction records will be maintained and made available for inspection during normal business hours.

7.13 Direct Sale Dealer License

- A. Applicability
 1. Authorizes the sale, purchase, barter or trade of allowable species of finfish, live lobsters and crabs, and live whelk direct to consumers and/or licensed seafood retailers dockside from the vessel on which they were harvested.
 2. Authorizes the transport and sale of live lobsters, crabs, and whelks from the vessel on which they were harvested to consumers and/or licensed seafood retailers.
- B. Eligibility

1. Applicants must hold a resident Commercial Fishing License or a resident landing permit authorizing the harvest and/or landing of species allowable for sale pursuant to this license.
2. Applicants must demonstrate that they or their registered agent maintain a fixed place of business residence or vessel berthed in the State of Rhode Island at which transaction records will be maintained and made available for inspection during normal business hours. Applicants must include with their application, documentation that they have secured permission from both the property owner and municipality at the location(s) where direct sales will be conducted.

C. General Requirements

1. Only the licensee/permittee, or a regularly employed crew member of the licensee/permittee, may sell allowable species under the Direct Sale Dealer License. To be eligible to conduct such sales, a crew member must first receive written authorization from the licensee/permittee. Such authorization shall be in the form of a type-written statement, signed and dated by the licensee/permittee that expressly authorizes the crew member to act on behalf of the licensee/permittee with regard to direct sales. The statement shall further specify: the name of the crew member, the name of the vessel from which the sales are conducted, and the month and year that the crew member began working on the vessel. The statement shall be kept on the vessel and be available at all times for inspection by Department personnel. A crew member who is acting on behalf of a licensee/permittee must comply with all applicable Regulations governing direct sales, as set forth herein, and the licensee/permittee shall be responsible for any violations of Regulations by the crew member.
2. All direct sale activities must be conducted in a manner consistent with applicable Federal, State, and municipal Laws, Regulations and polices governing port and marina operations.
3. Licensees/permittees offering allowable species for sale pursuant to the Direct Sale Dealer License may only sell allowable species that they legally harvested. Sales may only be conducted by commercial license holders authorized to commercially harvest the species made available for sale or a regularly employed crew member of the licensee/permittee.
4. The transfer of species between Direct Sale Dealer License holders is expressly prohibited.
5. For all species subject to sale, standard harvester reporting is required (i.e. Federal VTR's or State catch and effort reports) in accordance with the requirements set forth in Part [2](#) of this Subchapter, Commercial and Recreational Saltwater Fishing Licensing Regulations. Harvester reports

must be completed in full and be available for inspection by the Director prior to any species being sold pursuant to this license.

- D. Federal permit holders: Pursuant to Federal requirements, any person holding a Federal fishing permit (vessel-based) must sell their catches to Federally permitted dealers. For persons wishing to engage in direct sales from Federally permitted vessels, a Federal dealer's permit must be obtained from NOAA Fisheries. Once a dealer's permit is obtained, Federally permitted fishermen may sell to themselves, by reporting the catch on a vessel trip report (paper or electronic) and reporting sales through the Federal dealer reporting system.
- E. Prohibited Activities
1. The direct sale of histamine producing fish, including bluefish, tuna, mackerel, herring, mahi mahi, bonito, swordfish, marlin, sailfish, wahoo, anchovy, sardines, shad, menhaden; as well as amberjack, escolar, hind, jack, kahawai, milkfish, saury, scad, spearfish, sprat and trevally
 2. The direct sale of striped bass
 3. The transportation for sale of finfish to consumers and/or retailers. All sales of finfish must be sold dockside from the vessel.
- F. Storage and Handling Requirements
1. While on board the vessel, all species to be sold must be protected from contamination, kept shaded, maintained at or below forty-one degrees Fahrenheit (41° F) and/or buried in ice.
 2. Knives/utensils and other food contact surfaces used to head, gut or bleed fish must be kept clean.
 3. Species for sale must be labeled accurately.
 4. Finfish must be sold whole, or may be headed and gutted, and may be bled. No filleting or other processing may be done dockside from the vessel.
 5. Direct Sale Dealer License holders are exempt from the requirement set forth in § 7.15(F)(1) of this Part that summer flounder be placed in standard sixty (60) or one hundred (100) pound containers prior to their removal from the dealer's premises or from the point of transfer.
 6. Lobsters, crabs and whelk must be sold live.
 7. Transporting is limited to lobsters, crabs, and whelk harvested from individual vessels and sold/donated and transported by the individual harvester or affiliated crew members. The name of the vessel and license

holder, provided in writing and legible, must accompany all transported lobsters, crabs, and whelk.

8. Direct Sale Dealer License holders shall not engage in processing in accordance with Rhode Island Department of Health Regulations, Good Manufacturing Practices for Food ([216-RICR-50-10-4](#)), or Federal Regulations incorporated therein, unless licensed by the Rhode Island Department of Health to conduct such activities.
- G. Donations: Direct donations of finfish by licensed commercial fishermen are subject to the same Rules, Regulations, and requirements as set forth herein.
- H. Annual fee: Fifty dollars (\$50.00)

7.14 Reporting

- A. Dealers shall accurately identify all marine species received as categorized in the Standard Atlantic Fisheries Information System (SAFIS).
- B. Dealers shall have accounted for the quantity by count, weight and/or volume of all marine species landed at the point of transfer from the harvester.
- C. Dealer weight scales must be certified in accordance with R.I. Gen. Laws Chapter 47-1.
- D. Dealers shall maintain a record of transaction for all sales of marine species. The following information shall be maintained at the dealer's place of business and be available for inspection by the Director:
 1. Seller's name;
 2. Seller's commercial fishing license number;
 3. Date of purchase;
 4. Species landed;
 5. Quantity of purchase;
 6. Signature of seller.
- E. Dealers shall submit an electronic report to the SAFIS. In cases where a seafood dealer falls under the jurisdiction of both the State of Rhode Island and the Federal government (NMFS), the dealer must comply with the more frequent of the minimum reporting schedules or the more detailed trip level data requirement.
- F. Reporting frequency and required trip level data elements

1. Weekly reporting: Trip level data for all species landed shall be reported each week on Mondays and Thursdays, are due no more than five (5) days after the date of purchase, and shall consist of the following:
 - a. The species common name including market level and grade;
 - b. The amount landed or purchased including the units the product was measured in (i.e. pounds);
 - c. The area where product was taken (only applicable to shellfish purchases);
 - d. The date the product was landed or purchased;
 - e. The Rhode Island commercial fishing license or landing permit number of the fisherman selling the product to the dealer;
 - f. The vessel identification number (Coast Guard documentation number and/or State of Rhode Island registration number);
 - g. The port or location where the catch was landed or purchased; and,
 - h. When a seafood dealer is purchasing research set aside from a permitted and properly licensed fisherman, the poundage purchased will be designated in the catch source field as "RSA."
2. Striped Bass reporting: Trip level data for striped bass landed shall be reported each week, are due no more than twenty four (24) hours after the date of purchase, and shall consist of the following:
 - a. The species common name including market level and grade;
 - b. The amount landed or purchased including the units the product was measured in (i.e. pounds);
 - c. The date the product was landed or purchased;
 - d. The Rhode Island commercial fishing license or landing permit number of the fisherman selling the product to the dealer;
 - e. The vessel identification number (Coast Guard documentation number and/or State of Rhode Island registration number); and,
 - f. The port or location where the catch was landed or purchased.
23. Price reporting: Price data for all species harvested shall be reported within thirty (30) days of the landing or purchase date.
34. Negative Reports

- a. Rhode Island licensed seafood dealers shall submit a negative report to SAFIS for each weekly reporting period during which no seafood product was landed or purchased;
- b. Dealers may file negative reports for a maximum of three (3) months in advance.

45. Control date: The control date for compliance with this section is March 1, 2006.

7.15 Other Regulations

- A. License holders must meet all applicable and current Federal and State laws and Regulations governing harvest and possession relating to the species being sold.
- B. License holders must meet all applicable and current Federal, State, and local laws and Regulations governing retail sales operations, including but not necessarily limited to those governing taxation, signage, noise, and hours of operation.
- C. Importation of non-indigenous (non-native) horseshoe crabs: No dealer shall import, attempt to import, or possess in the cooked or un-cooked (frozen) state any non-indigenous (non-native) horseshoe crab species within the State of Rhode Island without prior, written authorization by the Department. The only species of horseshoe crab which may be possessed within the jurisdictional limits of the State of Rhode Island is the Atlantic horseshoe crab.
- D. Striped bass finning: No dealer may purchase and/or offer for sale, any striped bass where the entire right pectoral fin has been removed.
- E. Striped Bass Tagging
 - 1. Each striped bass shall be immediately tagged with a striped bass dealer tag issued by the Director. No striped bass may be sold unless it has been properly tagged.
 - 2. DEM may designate tagging agents as appropriate. All designated tagging agents shall keep and maintain the required forms and reports specified by DEM.
 - 3. All tag reports and unused tags must be returned to DEM by January 1 of the following year. Failure to return reports and unused tags may result in the tagging agent becoming ineligible to receive striped bass tags in the future.
- F. Summer Flounder

1. Dealers shall place summer flounder in standard sixty (60) or one hundred (100) pound cartons (containers) prior to their removal from the dealer's premises or from the point of transfer, unless specific prior written authorization is requested and received from the Division of Law Enforcement;
2. Dealers shall receive summer flounder between the hours of 6:00 A.M. to 8:00 P.M. only.

G. Lobster Exemption Certificate for Dealers

1. Dealers wishing to purchase, barter, trade or import lobsters from outside of the State or receive lobsters from LCMA 3 which are less than the minimum size for LCMA 2 must obtain a Lobster Exemption Certificate for Dealers from the Director. Eligibility requirements are as follows:
 - a. The applicant dealer must hold a valid commercial dealers license to deal in lobsters in Rhode Island;
 - b. The applicant dealer shall provide a copy of a valid dealer's license to purchase, barter, trade or import lobsters in the State of Rhode Island;
 - c. The applicant dealer must maintain a landside facility in Rhode Island with the tanks required to segregate and store separately lobsters not conforming to the LCMA 2 minimum size.
2. Application shall be made on forms prescribed by the Director.
3. Conditions to maintain compliance
 - a. The Certificate holder must notify the DLE by phone between one (1) hour and six (6) hours prior to receiving a shipment. The notification must include the name of the dealer receiving the shipment, the name of the dealer sending the shipment, the transfer time and location of transfer, and amount of lobster to be received, and if a vessel is involved the name of the vessel;
 - b. All shipments of lobsters less than the LCMA 2 minimum size as must be culled out immediately and stored separately on the business premises of the certificate holder;
 - c. The certificate holder shall maintain a written record of all transactions taking place under the provisions of this section including: the date of purchase; time of purchase; location of purchase; name of selling dealer or vessel; the person in charge of the vessel; amount of lobster received, including number of animals and total weight. Records shall be maintained documenting the sale

of lobsters received pursuant to this section, including the date and time of sale, and the name of the person or dealer to whom the lobsters were sold. Records must be available for inspection 8:00 A.M. – 4:00 P.M. at the dealer’s Rhode Island office or with an authorized business agent for a period of three (3) years from the date of the acquisition of the lobsters. Records shall be available for immediate inspection as a condition of this permit.

- d. Lobsters not conforming to the LCMA 2 minimum size may only be exported out of State or sold to another dealer who possesses a Lobster Exemption Certificate for Dealers for export out of State. No lobsters less than the LCMA 2 minimum size may be offered for sale on the retail market in Rhode Island.

7.16 Incorporated Materials

These Regulations hereby adopt and incorporate Rhode Island Department of Health Regulations, Processing and Distribution of Shellfish ([216-RICR-50-10-6](#)) by reference.

250-RICR-90-00-1

TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 90 – MARINE FISHERIES

SUBCHAPTER 00 – N/A

PART 1 – Definitions and General Provisions

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1.1 Purpose

The purpose of these Rules and Regulations is to efficiently manage the marine resources of Rhode Island.

1.2 Authority

These Rules and Regulations are promulgated pursuant to R.I. Gen. Laws Title 20, R.I. Gen. Laws Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with R.I. Gen. Laws Chapter 42-35, Administrative Procedures Act.

1.3 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.

1.4 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.

1.5 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 these Regulations 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.

1.6 General Provisions

- A. Use of explosives: The use of explosives as a fishing device in the internal and territorial waters of the State of Rhode Island is prohibited.
- B. Transfer at sea: No one may transfer or attempt to transfer at sea, from one (1) vessel to another, any finfish that are subject to these Regulations.
- C. Obstruction of migratory fish passage: No person shall obstruct the free passage of anadromous or catadromous fish in any marine waters, river, or stream, of the State of Rhode Island.

1.7 Quota Management

- A. Modification of sub-period allocations based on under/over-harvest:
1. Under-harvest: Any un-harvested quota from a sub-period allocation will be equally distributed to the allocations of the remaining sub-periods in the same calendar year.
 2. Over-harvest:
 - a. Any over-harvest of a sub-period allocation will be deducted from the allocations of the remaining sub-periods in the same calendar year.
 - b. Any over-harvest from the previous year will be deducted from the entire State allocation of the current year before redistributing according to the species-specific management plan.
- B. Modifications of allocations, seasons and possession limits: For quota managed species, in order to maintain compliance with a Federal or regional fisheries management plan (FMP), the DEM has the authority to distribute allocations, including the distribution of allocations among the various gear types, modify possession limits, and change seasons, unless specifically prohibited by the Secretary of Commerce or the Atlantic States Marine Fisheries Commission (ASMFC), in the following manner:
1. Allocation changes: If DEM projects that an allocation assigned for a sub-period, or assigned to be available for taking by a particular gear type during that sub-period, may be exhausted prior to the end of the sub-period, or may not be met for a sub-period, DEM may modify the allocation.
 2. Possession limit changes: If DEM projects that the allocation for a given species may be exhausted prior to the end of a sub-period or may not be met for a sub-period, DEM may modify the possession limit.
 3. If the quota for a sub-period allocation is fully harvested prior to the end of the sub-period, the DEM will close the fishery for the remainder of the sub-period.
 4. Notification of modifications to possession limits and/or seasons for marine species regulated under quota: Such notification shall take place in accordance with R.I. Gen. Laws § 20-1-12.1, and be provided to the public via the Marine Fisheries listserve, dedicated phone line (401-423-1920) and webpage. It is the responsibility of the licensed fishermen to know and abide by all possession limits and seasons.

1.8 Possession Limit and Vessel Operating Compliance

A. General

1. In any instance when there is a violation of the size, possession, or daily limit on board a vessel carrying more than one (1) person when the catch is commingled, the violation shall be deemed to have been committed by the owner of the vessel, or the operator of the vessel, if the owner is not on board.
2. A person who takes marine product/species utilizing a vessel and also without the assistance of a vessel is only allowed one (1) possession limit per calendar day unless an alternative period of time is specifically provided in the governing regulation.

B. Vessels operating recreationally

1. Any vessel, including a commercially declared and/or licensed party/charter vessel, may operate recreationally in accordance with all applicable recreational Regulations.
2. With regard to all species that are not subject to per-vessel restrictions, compliance with possession limits while operating recreationally shall be determined by dividing the total number of fish aboard the vessel by the total number of licensed or exempt recreational fishers or spearfishers aboard the vessel.
3. If a vessel makes more than one (1) recreational trip per day, the catches attributable to the same licensed or exempt fishers or spearfishers who go out again are cumulative.

C. Party/charter vessels operating recreationally

1. Only vessels licensed in accordance with R.I. Gen. Laws § 20-2-27.1 may operate as a party or charter vessel.
2. A vessel is operating as a party or charter vessel whenever the vessel is carrying one (1) or more passengers for hire for the purpose of engaging in recreational fishing or spearfishing.
3. Unless otherwise specified in this [Subchapter](#), vessels operating as a party or charter vessel must adhere to recreational Regulations.
4. With regard to all species that are not subject to per-vessel restrictions, compliance for party/charter vessels operating recreationally shall be determined by dividing the total number of fish aboard the vessel by the total number of anglers or spearfishers aboard the vessel.

5. If a party/charter vessel makes more than one (1) recreational trip per day, any marine species possessed by the captain and mate are cumulative.

D. Vessels operating commercially

1. Only vessels that are commercially declared may operate as a commercial vessel.
2. A vessel is operating commercially whenever the vessel is engaged in the process of taking, harvesting, holding, transporting, loading or off-loading marine species for sale or intended sale.
3. Vessels making more than one (1) commercial trip per calendar day must have onboard a Rhode Island catch and effort logbook or a Federal VTR, and the logbooks or VTRs must be completed prior to the initiation of the second (2nd) commercial or recreational fishing trip on the same day. An exemption from carrying the Rhode Island catch and effort logbook shall be granted for vessels which are operated by licensed captains who are enrolled and currently active participants in the eTrips electronic reporting program. The eTrips report of the first (1st) commercial or recreational fishing trip must be entered prior to the initiation of the second (2nd) commercial or recreational fishing trip on the same day.
4. Any vessel operating commercially, including any vessel fishing commercially using rod and reel, may utilize, without restriction, any number of unlicensed crew members to assist with any commercial operations.
5. For all commercial fisheries except shellfish, any number of unlicensed crews may assist in direct commercial harvest operations regardless of the manner, method or contrivance employed, as long as said crew is/are located onboard a commercially declared vessel that is operated by an individual who possesses a valid and proper commercial fishing license and is/are under the direct supervision and responsibility of said properly licensed commercial fisher. With respect to commercial shellfish operations, unlicensed crews may only assist with culling activities and other indirect harvest operations, while said crew is/are located onboard a commercially declared vessel that is operated by an individual who possesses a valid and proper commercial fishing license and is/are under the direct supervision and responsibility of said properly licensed commercial fisher.
6. Vessels making more than one (1) commercial trip per calendar day are bound by all applicable per-vessel, per-day possession limits.
7. A vessel operating commercially may not possess or land more than the per-vessel limit; however, a portion of the catch may be retained for (non-

commercial) personal use, provided that the amount of fish retained for personal use must be recorded in the licensee's commercial logbook.

E. Vessels Operating in More Than One Mode

1. On a per trip basis, a vessel may only operate recreationally, or as a party or charter vessel, or commercially. No vessel may operate in more than one (1) mode during the same trip.
2. A vessel that is commercially declared may operate in commercially during one (1) portion of a calendar day and operate recreationally or as a party or charter vessel during a separate trip on the same day, subject to separate and non-overlapping commercial and recreational or party/charter Regulations.
3. Upon boarding or inspection, the captain or operator of a commercially declared vessel must disclose whether the vessel is operating commercially, or as a party or charter vessel, or recreationally.

F. Weekly and bi-weekly possession limits: In any instance where the first (1st) week in a given sub-period begins on any day other than Sunday, or the last week in a given sub-period ends on any day other than Saturday, resulting in a shortened week or bi-week, the following shall apply:

1. A person may land a full weekly or bi-weekly possession limit; and
2. The cumulative landings must occur during the shortened week or bi-week.

1.9 Transiting

A. Finfish

1. During the closure of a Rhode Island State-allocated fishery quota, a Federally-permitted vessel fishing in the Exclusive Economic Zone may transit Rhode Island State waters for the purpose of landing that species in another State, provided the vessel is in compliance with their Federal permit, and the vessel nets are stowed.
2. A Federally-permitted vessel fishing in the Exclusive Economic Zone may transit Rhode Island State waters for the purpose of landing a species in Rhode Island, provided that the species in possession do not have a State-allocated quota that is currently closed, provided the vessel is in compliance with their Federal permit, provided the vessel nets are stowed, and provided that the owner or operator possesses a valid Rhode Island Landing License.

3. A vessel in possession of a regulated species harvested in an open area of State waters may transit a closed portion of State waters in possession of that species for the purpose of landing, provided the operator of the vessel has a valid fishing license, and if fishing with nets, the nets are stowed.

B. Shellfish

1. During the closure of a Rhode Island State-allocated fishery quota, a federally permitted vessel fishing in the Exclusive Economic Zone may ~~traverse~~transit Rhode Island State waters for the purpose of landing that species in another State, provided the vessel is in compliance with their Federal permit, and all gear capable of harvesting shellfish is stowed and not engaged in the act of taking or harvesting while transiting State waters.
2. A Federally-permitted vessel fishing in the Exclusive Economic Zone may ~~traverse~~transit Rhode Island State waters for the purpose of landing a species in Rhode Island, provided that the species in possession do not have a State-allocated quota that is currently closed, provided the vessel is in compliance with their Federal permit, and provided that all gear capable of harvesting shellfish is stowed and not engaged in the act of taking or harvesting while transiting State waters, and provided that the owner or operator possesses a valid Rhode Island Landing License pursuant to ~~DEM's Commercial and Recreational Saltwater Fishing Licensing Regulations~~, Part 2 of this Subchapter.

C. Stowage of nets: A net that conforms to one (1) of the following specifications and that can be shown not to have been in recent use is considered to be "not available for immediate use."

1. A net stowed below deck, provided:
 - a. It is located below the main working deck from which the net is deployed and retrieved;
 - b. The towing wires, including the leg wires are detached from the net; and
 - c. It is fan folded (flaked) and bound around its circumference.
2. A net stowed and lashed down on deck, provided:
 - a. It is fan folded (flaked) and bound around its circumference;
 - b. It is securely fastened to the deck or rail of the vessel; and

- c. The towing wires, including the leg wires, are detached from the net.
- 3. A net that is on a reel and is covered and secured, provided:
 - a. The entire surface of the net is covered with canvas or other similar material that is securely bound;
 - b. The towing wires, including the leg wires, are detached from the net; and
 - c. The cod end is removed from the net and stored below deck.
- 4. National Marine Fisheries Service authorized: Nets that are secured in a manner authorized in writing by the National Marine Fisheries Service Regional Director, for the Mid-Atlantic regulated mesh area defined as "that area bounded by the intersection of the outer boundary of the Exclusive Economic Zone (EEZ)."

1.10 Control Dates

- A. The Department may establish control dates, which shall serve as cut-off dates for potential use in establishing eligibility criteria for future access to a fishery.
- B. Eligibility criteria may include, but are not limited to, historic participation and/or gear levels as documented by transaction records and official State or Federal logbooks.
- C. The establishment of a control date is intended to promote awareness of the potential establishment of eligibility criteria for future access to a fishery and to discourage speculative shifting of effort into that fishery. To this end, the Department may give various weighted considerations to those active in the fishery before and after the control date.
- D. Establishing a control date does not commit the Department to any management regime or criteria for limiting future access to a fishery; however, once enacted, control dates may only be used to limit future access to a fishery in accordance with a fisheries management plan.
- E. Control dates may only be established prospectively, unless a retroactive control date is expressly required by Federal law, Regulation or court decision.

1.11 Penalties for Non-Compliance

- A. If the Director determines that there has been non-compliance with the provisions of these Regulations or a permit agreement, the owner and/or operator of the vessel and/or license holder shall be advised of such determination and the specific grounds therefore in writing. The determination shall specifically include

notice that an opportunity for a hearing is available before the Administrative Adjudication Division pursuant to R.I. Gen. Laws Chapter 42-17.7 relative to either or both the finding that sufficient evidence exists of non-compliance with the provisions of these Regulations or the permit agreement as well as the termination of the permit and or the imposition of a penalty pursuant to R.I. Gen. Laws § 20-1-16.

- B. Judicially imposed penalty for violations:
1. Unless otherwise specifically provided, the violation of any Law or Rule or Regulation relating to wild animals, wild birds, lobsters and fish, marine, freshwater and anadromous fisheries and shellfisheries shall be a misdemeanor, punishable by a fine of not more than five hundred dollars (\$500.00) or imprisonment for up to ninety (90) days, or both (~~R.I. Gen. Laws § 20-1-16~~).
 2. Additionally, a person may be subject to the imposition of an administrative penalty pursuant to DEM's Rules and Regulations Governing the Suspension/Revocation of Commercial and Recreational Fishing Licenses, Part 80-00-6 of this Title, licenses issued pursuant to R.I. Gen. Laws Title 20.

1.12 Appeals

- A. Denial of a license or permit: Persons denied a license or permit may request an appeal within thirty (30) days of the receipt of the denial as provided by R.I. Gen. Laws Chapter 42-17.7 and pursuant to the Rules and Regulations for the Administrative Adjudication Division, Part 10-00-1 of this Title.
- B. Enforcement Action: Any person affected by a decision of the Director for an enforcement action pursuant to these Regulations may file and appeal within twenty (20) days after the date of receipt of the enforcement action in accordance with R.I. Gen. Laws Chapter 42-17.7 and Rules and Regulations for the Administrative Adjudication Division, Part 10-00-1 of this Title.

1.13 Definition of Terms

"Activity Standard" means a level of fishing participation used to establish criteria for the issuance of new licenses.

"Adequately iced" means the amount and application of ice sufficient to ensure that immediate cooling begins and continues for all shellfish. Ice should be produced from a potable water source and shall be maintained to prevent contamination of shellfish.

"Affidavit" means a sworn statement of facts made under oath as to the truthfulness therein, and made before an authorized person such as a Notary

Public. For the purposes of these Rules and Regulations, affidavits must be on forms provided by the Department.

"Agent" means a representative of a licensed dealer with a place of business in the State of Rhode Island wherein transaction records of said dealer are maintained and available for inspection during normal business hours.

"Air-assisted harvest" means the use of an air compressor or any device capable of pressurizing air/gas or compressed gas in a tank, to power any device designed to disturb the substrate, create a vacuum effect or sediment displacement effect in collection of aquatic species.

"Anadromous fish" means any species of fish which ascends rivers or streams from the sea for breeding purposes (e.g. Alewife, Salmon, Shad).

"Angling" means to fish recreationally using hook and line (~~R.I. Gen. Laws § 20-2.2-3~~).

"Approved waters" or "Approved growing areas" means marine waters of the State that have been classified by the DEM Division of Water Resources as Approved Areas, fit for the taking of shellfish for human consumption on a regular basis, in accordance with the criteria established by the National Shellfish Sanitation Program (NSSP) Manual of Operations. These classifications may be subject to change as water quality conditions dictate.

"Bait gill net" means a gill net not exceeding one hundred feet (100') nor exceeding a mesh size greater than three and three quarters inches (3-3/4") (stretched).

"Bay scallop dredging" means the towing of a bay scallop dredge during the established bay scallop dredging season.

"Bay scallop seed" means a bay scallop with a bright, thin, slightly curved shell with no foreign adherent, the shell having no well-defined raised annual growth line, and the bay scallop being less than one (1) year old.

"Beach seine" means a seine that is deployed from the shore.

"Bill of lading" means an invoice which identifies a shipment of fish, shellfish or crustaceans as to seller, buyer, source, type, quantity and sale price.

"Bi-week" means a two (2) week period beginning 12:00 A.M. on a Sunday and ending on the second (2nd) Saturday at 11:59 P.M.

"Bullrake" means any curved metal instrument or basket with four (4) or more metal tines (teeth) which is customarily used to harvest quahaugs.

"Bycatch" means marine species which have been harvested, but which are not sold or kept for personal use and includes species that are discarded while a fisher is directing his/her effort toward the harvest of another marine species.

"Bushel" means a standard U.S. bushel, 2150.4 cubic inches capacity (~~R.I. Gen. Laws § 20-1-3~~).

"Catadromous fish" means any species which lives in fresh water, but must go to sea for breeding purposes (e.g., American eel, *Anguilla rostrata*).

"Carapace" means the un-segmented body shell of the American lobster.

"Carapace length" means the length of a lobster measured from the rear of the eye socket along a line parallel to the center of the body shell to the rear of the body shell.

"Catastrophic trap tag loss" means the loss of original lobster trap tags in excess of the ten percent (10%) over-allotment trap tags issued for routine loss, in which instance the original trap tags become invalid and must be replaced in their entirety by catastrophic trap tags.

"Circle hook" means a non-offset hook where the point is pointed perpendicularly back towards the shank.

"Coastal salt pond" means a pond abutting a barrier beach; some are periodically fresh; others are brackish or salt.

"Coastal salt pond channel" means a natural or man-made, temporary or permanent waterway, allowing for the passage of water to and from any coastal salt pond. Distances (in feet) describing the following salt pond channel areas are measured from the seaward extremity of any channel to a point measured in a northerly direction, or as specifically described herein.

Coastal Salt Pond Channel Distances

Pond/Channel	Town	Distance
Quicksand	L. Compton	750'
Tunipus	L. Compton	200'
Briggs Marsh	L. Compton	600'
Ship Pond Cove	L. Compton	200'

Long	L. Compton	400'
Round	L. Compton	250'
Nonquit (Puncatest)	Tiverton	1,800'
Nannaquaket (measured from the mouth of the Quaket River to the eastern side of the Nannaquaket Bridge abutment)	Tiverton	400'
Narrow/Pettaquamscutt	Narragansett/N. Kingstown	3,850'
Point Judith (measured in a northerly direction from the mouth of the Point Judith Breachway to a line drawn from Strawberry Hill Point on the east to High Point on the west)	Narragansett/S. Kingstown	6,000'
Potter (measured from the western entrance of Potter Pond channel to the eastern tip of Gooseberry Island in Point Judith Pond)	South Kingstown	2,800'
Card	South Kingstown	200'
Trustom	South Kingstown	500'
Green Hill: Potato Point (measured from the easternmost point of Stevens Island in Ninigret/Charlestown Pond to the westernmost point of Potato Point in Green Hill Pond)	S. Kingstown/Charlestown	1,800'
Ninigret/Charlestown	Charlestown	3,200'
Quonochontaug	Charlestown/Westerly	2,800'
Winnapaug/Brightman	Westerly	2,800'
Little Maschaug	Westerly	250'

Maschaug	Westerly	300'
Great Salt	Block Island	1,800'
Trim	Block Island	850'
Harbor	Block Island	1,000'

"Codend" means the terminal section of a trawl net in which captured fish may accumulate, and is further defined as the last forty-five (45) rows of meshes in the terminal section of the net.

"Colregs demarcation line" means the lines of demarcation, as defined on National Oceanic and Atmospheric Administration chart #13221, delineating those waters upon which mariners must comply with the international regulations for preventing collisions at sea, and those waters upon which mariners must comply with the inland navigation rules. For Point Judith the "Port" is to be all waters inside of and north of the southern end of the riprap wall at Salty Brine State Beach so-called. The demarcation lines for Block Island are as follows: the area enclosed by the breakwaters at Old Harbor, and the entirety of Great Salt Pond so called.

"Commercial fisherman/~~fishermen~~" means a natural person(s) who licensed to catch, harvest, or take finfish, crustaceans, or shellfish marine species from the marine waters for sale ~~(R.I. Gen. Laws § 20-2.1-3)~~.

"Commercial fishing" means to take, harvest, hold, transport, or off-load marine species for sale or intended sale ~~(R.I. Gen. Laws § 20-1-3)~~.

"Commercial fishing vessel" means any vessel, boat or craft employed in the harvesting of marine species commercially, which shall first be declared with the Department.

"Conditionally approved waters" means shellfish grounds underlying waters examined and found fit for the taking of shellfish for human consumption on an intermittent basis, declared by the Director as conditionally approved waters pursuant to R.I. Gen. Laws §§ 20-8.1-3 and 20-8.1-4. Such classification may be subject to change as water quality conditions dictate ~~(R.I. Gen. Laws § 20-8.1-1)~~.

"Constantly tended" means that a person setting a net shall remain within one hundred feet (100') of the net at all times.

"Container" means any bag, sack, tote, or other receptacle that contains shellfish to be held or transported.

"Control date" means a cutoff date for potential use in establishing eligibility criteria for future access to a fishery.

"Crab pot" means any pot designed or adapted principally for the catching or taking of crabs.

"Council" means the Rhode Island marine fisheries council established by chapter 3 of this title.

"Crew" means a person, aged sixteen (16) or older, employed for purposes of assisting in the operation of a commercial fishing vessel and its gear by another person licensed to fish commercially pursuant to ~~the Commercial and Recreational Saltwater Fishing Licensing Regulations~~, Part 2 of this Subchapter.

"Crustaceans" means lobsters, crabs, shrimp, and for purposes of this chapter, horseshoe crabs

"Cultured crops" means aquatic or marine animals or plants that are in the location, water column or artificial conditions specified in a valid aquaculture permit; or that have been taken by the holder of such permit from the location, water column or artificial conditions specified in such permit; or that have been produced by aquaculture methods outside the State and have not been commingled with wild stocks that are in or have been removed from the waters of the State. Appropriate bills of sale, bills of lading and proper tags and all other applicable State and Federal laws and Regulations shall be *prima facie* evidence of the origin of cultured crops inside or outside the State.

"Day" means a calendar day, or the twenty-four (24) hour period of time beginning at 12:00 A.M. and ending at 11:59 P.M.

"Dealer" means a person licensed to barter or trade in marine species.

"Director" means the Director of the Department of Environmental Management or his or her duly appointed agents.

"Discards" means marine species that are discarded overboard by fishers because their possession is prohibited by regulations or for economic reasons.

"Disposition" means the intended use or fate of landed marine species after leaving the dealer premises (e.g., food, or bait).

"Dredge" means a mechanical device that is towed behind a fishing vessel and whose purpose is to collect shellfish from the sea floor.

"Drift gill net" means a floating gill net that is floating unattached to the ocean bottom and not anchored, secured, or weighted to the ocean bottom.

"Dual federal permit/state license holder" means a person who holds both a Federal Limited Access Lobster Permit and a State of Rhode Island Commercial Fishing License endorsed for American lobster.

"Eel trap/pot" means any pot or trap designed or adapted principally for the catching or taking of American eels.

~~"Endorsement" means a notation on a license that indicates the right to harvest a marine species or group of similar species, the right to utilize a particular type of gear or harvesting method, or the right to sell a particular marine species or group of similar species directly to consumers at dockside, in accordance with applicable harvest and/or gear restrictions.~~

~~"Endorsement category" means a marine species or group of similar species that may be legally harvested by a fisher whose license allows the taking of those species; or a gear type or harvesting method that may be legally utilized by a fisher whose license is properly endorsed.~~

"Exclusive economic zone" or "EEZ" means those waters three (3) to two hundred (200) miles (five (5) to three hundred twenty-two (322) kilometers) offshore which are under the direct jurisdiction of the Federal government.

"Exit/entry ratio" means the number of restricted license endorsements made available for each endorsement surrendered to the Department, on an annual basis.

"Family member" means a spouse, mother, father, brother, sister, child or grandchild of a licensed fisher license holder of the transferor of a commercial fishing license. Spouse shall include a person who is currently a party to a marriage that was legally recognized in the State or Territory in which the marriage was solemnized.

"February 28" means the twenty-eighth (28th) day in the month of February or the next business day if February 28 falls on a Saturday or Sunday or holiday for the purpose of application submittals and renewal deadlines.

"Finfish" means cold-blooded aquatic vertebrates with fins, including fish, sharks, rays, skates, and eels and also includes, for the purposes of this chapter, squid.

"Fishery" means one (1) or more stocks of marine species which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographic, scientific, technical, recreational, and economic characteristics; and any fishing for such stocks.

"Fishery Endorsement" means the authorization for a license holder to participate in a designated fishery sector at a limited or unlimited level.

"Fishery performance" means properly documented commercial lobster fishing activity; namely pounds landed and traps fished in LCMA 2 during the applicable qualifying period.

"Fishery sectors" means and comprises crustaceans, finfish, shellfish, as defined in this section, each of which shall singularly be considered a fishery sector (~~R.I. Gen. Laws § 20-2.1-3~~).

"Floating fish trap" means a floating trap, weir, pounds net, or any equivalent contrivance set on, in or anchored to the bottom or shore, used for the purpose of catching fish (~~R.I. Gen. Laws § 20-5-1~~).

"Fork length" means the straight linear distance from the tip of the snout to the fork of the tail.

"Fyke net" means a conical shaped net supported by hoops, which also utilizes a leader to direct fish to the net.

"Gear" means any device or mechanism other than a vessel employed to catch marine species.

"Gill net" means a net used to catch fish by means of meshing or entanglement.

"Grace period" means sixty (60) calendar days commencing on the last day of February immediately following the application deadline, as defined herein. The grace period is applicable and shall only apply to renewals of licenses from the immediately preceding year.

"Grade" means the landing condition of each marine species (e.g., whole, gutted).

"Harbor of refuge breakwater" means the three (3) sections of breakwater off of Point Judith in the town of Narragansett.

"Harvest" means the act of removing a marine species with the intention of not returning it to the water.

"Hinge width" means the distance between the convex apex of the right shell and the convex apex of the left shell.

~~"Incapacity" means death of, or injury that renders an active license holder unable to fish for a period in excess of fourteen (14) days either as a result of the physical loss of function or impairment of a body part or parts, or debilitating pain.~~

"Incidental catch" means unintended harvest of non-targeted marine species, which may be sold or kept for personal use, as established by rule.

"Initial LCMA 2 LTA" means the initial (maximum) number of lobster traps authorized in 2007 to be fished by an individual permit or license holder in LCMA 2.

"Land" or "landing" means to offload marine species harvested within or outside of Rhode Island waters for sale or intended sale, or to secure a vessel with marine species on board to a shoreside facility where the marine species may be offloaded for sale or intended sale (~~R.I. Gen. Laws § 20-1-3~~).

"LCMA 2 lobster trap allocation" or "LTA" means the maximum number of lobster traps authorized to be fished by an individual permit or license holder in LCMA 2.

"Licensed captain" means a person who holds or held a valid commercial fishing license issued by the Department.

"License year" means January 1 of any given year through December 31 of the same year.

"Lobster pot" means any pot designed or adapted principally for the catching or taking of lobsters or Jonah Crab.

"Lottery" means any of a variety of procedures used to determine priority in the issuance of new licenses or permits in cases where only a limited number of new licenses are available; such procedures having the common characteristics of being verifiably blind, random, fair and equitable.

"LTA transfer" means a change in ownership of a partial or entire Department or NOAA Fisheries-issued LTA by a person.

"LTA transferor" means the license or permit holder from whom an LTA transfer is made.

"LTA transferee" means the person or fishing vessel to whom/which an LTA transfer is made.

"Marine species" means any animal species found in the marine waters of Rhode Island, including but not limited to finfish, shellfish, crustaceans, and squid.

"Marine waters of Rhode Island" means all tidal and territorial waters of the State out to three (3) nautical miles from the coastline (~~R.I. Gen. Laws § 20-2.2-3~~).

"Mechanical power" means any source of energy or power other than exclusively human power.

"Mechanical refrigeration" means storage in a container that is approved by the Rhode Island Department of Health and capable of cooling to, and maintaining, an ambient temperature of forty-five degrees Fahrenheit (45° F) or less.

"Medical hardship" means a significant medical condition that ~~prevents a license holder from meeting licensing application requirements.~~ renders an active licensed person unable to fish for a period in excess of fourteen (14) days, either as a result of the physical loss of function or impairment of a body part or parts, or debilitating pain. Demonstration of the medical hardship shall be in the form of a diagnosis and prognosis signed by a medical doctor (M.D. or O.D.).

"Medical Incapacity" means death or injury that renders an active license holder permanently unable to actively fish. Demonstration of medical incapacity shall be in the form of a death certificate, or a diagnosis and prognosis signed by a medical doctor (M.D. or O.D.).

"Netting" means a meshed fabric which exceeds eight feet (8') in length or width including, but not be limited to seines, weirs, fyke nets, otter trawls, and gill nets.

"Non-resident" means a person who does not present proof of Rhode Island residency.

"Non-resident landowner" means a non-resident citizen of the United States and owner of real estate in Rhode Island as evidenced by deed filed in the Recorder of Deeds office in a Rhode Island town or city hall (~~R.I. Gen. Laws § 20-1-3~~).

"Obstructing the free passage of fish" means the blocking of a stream, river, or pond so as to impede the passage of anadromous and/or catadromous fish, e.g., shad, alewife, and the American eel.

"Offload" means to begin to remove, to remove, to pass over the rail, or otherwise take away fish from any vessel.

"Open to the sea" means a coastal salt pond will be considered open to the sea if any flow of water connects coastal salt pond with the sea.

"Original lobster trap tags" means those trap tags available for purchase to a Rhode Island Commercial License holder or a Federal Limited Access Lobster Permit holder based on their lobster trap allocation, including an additional ten percent (10%) over-allotment to allow for routine trap or tag losses.

"Other endorsement" means the authorization for a license holder or vessel to participate in a designated activity.

"Overfishing" or "Overfished" means a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis.

"Party vessel" or "Charter vessel" means any vessel that carries passengers for hire to engage in fishing.

"Peck" means one fourth (1/4) of a bushel (~~R.I. Gen. Laws § 20-1-3~~).

"Permanently disabled" means a person who is one hundred percent (100%) permanently disabled in accordance with R.I. Gen. Laws §§ 20-2-31 and 20-2.2-3.

"Person" means an individual, corporation, partnership, co-partnership, association, private or Municipal Corporation, or other legal entity firm (~~R.I. Gen. Laws § 20-1-3~~).

"Place of business" means a building or office located in the State of Rhode Island where a licensed fish dealer maintains records of sales and purchases which are available for inspection by the Department during normal business hours.

"Polluted area" means shellfish grounds underlying waters examined and found to be unfit for the taking of shellfish for human consumption declared by the Director as polluted areas pursuant to R.I. Gen. Laws §§ 20-8.1-3 and 20-8.1-4. For the purposes of any criminal or civil proceeding instituted under this chapter, a declaration by the Director shall be *prima facie* evidence of a polluted area (~~R.I. Gen. Laws § 20-8.1-1~~).

"Port" means any town or city with a harbor and docking facilities where vessels can land.

"Possession" means the exercise of dominion or control over the resource commencing at the time at which a decision is made not to return the resource to the immediate vicinity from which it was taken. The decision must be made at the first practical opportunity.

"Possession limit" means the maximum quantity of marine species that may be possessed by a vessel or person per specified period of time (i.e., day or week) regardless of the means by which the marine species may have been taken.

"Pot" or "Trap" means any stationary bottom-fishing contrivance or device made of wood, wire mesh, or plastic mesh, fished individually or linked by a common line and generally baited; used to catch finfish, crabs, conchs, or lobsters that enter through a conical or rectangular opening where escape is difficult.

"Power hauling" means the raising or moving of fishing implements including dredges, rakes, tongs, or other apparatus used to harvest marine organisms from the waters of the State or the underlying sediment.

"Quota" means the maximum weight or number of marine species which can legally be landed within a stated time period.

"Recreationally fishing" means the process of taking marine species by any means (e.g., hook and line, net, spear, pot, or powerhead) for personal use and not for sale.

"Resident" means a person who has had his or her actual place of residence and has lived in the State of Rhode Island for a continuous period of not less than six (6) months. Proof of residence may include a Rhode Island driver's license, voter registration card or a notarized statement from a City or Town Clerk (~~R.I. Gen. Laws § 20-1-3~~).

"Routine trap tag loss" means the loss of lobster trap tags that does not exceed the ten percent (10%) over-allotment trap tags issued for routine loss.

"Season" means a period of time established by Regulation during which management Rules specific to that period are in effect.

"Seine" means any net used to catch fish by encirclement or herding that hangs vertically in the water with its bottom edge held down by weights and its top edge buoyed by floats.

"Shading" means to shelter by intercepting the direct rays of the sun to protect the shellfish from heat. Shading may be accomplished by any means that effectively protects the harvested shellfish from direct sunlight and prevents excessive heat build-up in the shaded area.

"Shellfish" means any molluscan species growing in Rhode Island tidal waters, including, but not limited to, bay quahaug, ocean quahaug, blue mussel, oyster, soft shell clam, bay scallop, and surf clam.

"Shellfish grounds" means all land underlying waters within the rise and fall of the tide and the marine limits of the jurisdiction of the State (~~R.I. Gen. Laws § 20-8.1-1~~).

"Shellfish harvest tagging area" means the marine waters of the State where shellfish are harvested (refer to <http://www.dem.ri.gov/programs/marine-fisheries/shelltag.php>).

"Shoreward" means that point or end of any net which is closest/nearest the coast or the closest coastal outcropping.

"Sink gill net" means any bottom tending gill net that is designed to be or is fished on or near the bottom of the water column by means of a weight line or enough weights and/or anchors that the bottom of the gill net sinks to, on, or near the ocean bottom.

"Shoredigging" means the taking of shellfish from shallow areas or the intertidal zone of the waters of the State without the use of a boat or SCUBA gear and when body contact is made with the bottom substrate.

"Take" or "taking" means the process and each of the activities in that process undertaken to remove the resource from its natural habitat until the time at which possession begins.

"Temperature control" means the use of ice or mechanical refrigeration, which is capable of lowering the temperature of the shell stock and maintaining it at fifty degrees Fahrenheit (50° F) or less.

"Tongs" means any shellfishing implement constructed with heads attached to stales (handles) and pinned at a pivot point to allow the opening and closing of the basket mouth formed by the two.

"Total length" means the straight linear distance from the tip of the snout to the end of the tail of a finfish species. All finfish species' minimum sizes are measured as total length, except for coastal sharks, in which minimum size is measured by fork length.

"Transaction records" means invoices or similar records of the purchase marine species by a licensed dealer, which identify the boat, license holder, the Rhode Island dealer name, and the date sold, species landed, pounds landed, name of the seller, and license number of the seller.

"Trawl devices" means any type of fishing apparatus drawn behind a vessel which consists of otter doors and/or ground cables, ropes, and/or netting, including, but not be limited to beam trawls, otter trawls, Scottish seines, and pair trawls.

"Trip" means a fishing voyage beginning with the departure from any port and terminating with the return to any port regardless of the duration of time.

"Trip level data" means data reported to the detail of each individual fishing trip.

"V-notched female American lobster" means any female American lobster with a v-notch mark, or the remnant of a healed v-notch mark in the end part of the right tail flipper adjacent to the middle tail flipper, or any lobster which is mutilated in such a manner which could hide, obscure, or obliterate such a mark, including a missing right tail flipper. A v-notch shall be a notch or the remnant of a healed notch, with or without setal hairs, at least one eighth of an inch (1/8") in depth. Any licensed/permitted commercial fisherman required or authorized to mark lobsters with a v-notch mark in LCMA 2 shall make a v-notch mark by means of a sharp-blade instrument, at least one quarter of an inch (1/4") and not greater than one half of an inch (1/2") in depth and tapering to a sharp point. The flipper to the right of the center flipper will be examined when the underside of the lobster is down and its tail is toward the person making the determination.

"Vessel" means every description of watercraft, other than a seaplane on the water, used, or capable of being used as a means of transportation on water.

"Water-assisted harvest" means the attempt to collect aquatic species by using a water pump or pressurized water, or device designed to disturb the substrate, create a vacuum effect or sediment displacement.

"Week" means a calendar week, or the period beginning on Sunday at 12:00 A.M. and ending on 11:59 P.M. of the immediately following Saturday.

"Weir" means a barrier of interwoven twine, branches, or other material used to catch fish.

"Wet storage" means the temporary storage of shellfish (from growing areas) in the approved classification or in the open status of the conditional approved classification in containers or floats in natural bodies of water or in tanks containing natural or synthetic seawater; this includes flow-through systems.

"Whelk pot" means any pot designed or adapted principally for the catching or taking of whelks.

~~"Wild shellfish stock" means natural shellfish resources that set and grow within the waters of the State and are not cultured in any way; however, cultured shellfish crops that are stocked in tidal waters of the State that are not within an aquaculture lease or facility are considered wild stock shellfish.~~

~~"Wild stock" means natural resources, including aquatic or marine animals or plants, which grow within the waters of the State, and are not cultured in any way. Any shellfish that have settled naturally within an aquaculture facility are considered wild stock.~~

1.14 Commonly Used Acronyms

"ACCSP" means Atlantic Coastal Cooperative Statistics Program.

"ASMFC" means Atlantic States Marine Fisheries Commission.

"CRMC" means Rhode Island Coastal Resources Management Council.

"DEM" or "Department" means Rhode Island Department of Environmental Management.

"Division" means the Division of Marine Fisheries of the Department of Environmental Management.

"DOH" means Rhode Island Department of Health.

"LCMA" means Lobster Conservation Management Area.

"LCMA 2" means Lobster Conservation Management Area 2, as delineated in Amendment 3, Appendix 1 to the Interstate Fishery Management Plan for American Lobster, adopted by the ASMFC in December 1997.

"LTA" means Lobster trap allocation, either issued by the Department or NOAA Fisheries.

"NOAA" means National Oceanic and Atmospheric Administration.

"RIMFC" means the Rhode Island Marine Fisheries Council (~~R.I. Gen. Laws § 20-10-2~~).

"SAFIS" means Standard Atlantic Fisheries Information System.

"TAL" means Total allowable landings.

1.15 Common Species

"Alewife" means *Alosa pseudoharengus*, alewives.

"American eel" means *Anguilla rostrata*.

"American lobster" means *Homarus americanus* (~~R.I. Gen. Laws § 20-1-3~~).

"American plaice" means *Hippoglossoides platessoides*, Dab.

"American shad" means *Alosa sapidissima*.

"Atlantic angel shark" means *Squatina dumeril*.

"Atlantic cod" means *Gadus morhua*, cod, codfish.

"Atlantic menhaden" means *Brevoortia tyrannus*, pogies, menhaden, peanut bunker.

"Atlantic herring" means *Clupea harengus*.

"Atlantic rock crab" means *Cancer irroratus*, sand crab.

"Atlantic horseshoe crab" means *Limulus polyphemus*.

"Atlantic salmon" means *Salmo salar*.

"Atlantic sturgeon" means *Acipenser oxyrinchus*.

"Barndoor skate" means *Dipturus laevis*.

"Basking shark" means *Cetorhinus maximus*.

"Bay quahaug" means *Mercenaria mercenaria*, hard clam, quahaug, quahog (~~R.I. Gen. Laws § 20-1-3~~).

"Bay scallop" means *Argopecten irradians* (~~R.I. Gen. Laws § 20-1-3~~).

"Blacknose shark" means *Carcharhinus acronotus*.

"Black sea bass" means *Centropristes striatus*.

"Blacktip shark" means *Carcharhinus limbatus*.

"Blueback herring" means *Alosa aestivalis*.

"Blue crab" means *Callinectes sapidus* (~~R.I. Gen. Laws § 20-1-3~~).

"Bluefish means" *Pomatomus saltatrix*, skipjack.

"Blue mussel" means *Mytilus edulis* (~~R.I. Gen. Laws § 20-1-3~~).

"Blue shark" means *Prionace glauca*.

"Bigeye sandtiger shark" means *Odontaspis noronhai*.

"Bigeye sixgill shark" means *Hexanchus nakamurai*.

"Bigeye thresher" shark means *Alopias superciliosus*.

"Bignose shark" means *Carcharhinus altimus*.

"Bluntnose sixgill shark" means *Hexanchus griseus*.

"Bonnethead shark" means *Sphyrna tiburo*.

"Bull shark" means *Carcharhinus leucas*.

"Caribbean sharpnose shark" means *Rhizoprionodon porosus*.

"Cobia" means *Rachycentron canadum*.

"Common thresher" shark means *Alopias vulpinus*.

"Conch" means Channeled Whelk – *Busycotypus canaliculatus*; or Knobbed Whelk – *Busycon carica* (~~R.I. Gen. Laws § 20-1-3~~).

"Dusky shark" means *Carcharhinus obscurus*.

"Finetooth shark" means *Carcharhinus isodon*.

"Florida smoothhound shark" means *Mustelis norrisi*.

"Galapagos shark" means *Carcharhinus galapagensis*.

"Great hammerhead shark" means *Sphyrna mokarran*.

"Green crab" means *Carcinus maenas* (~~R.I. Gen. Laws § 20-1-3~~).

"Haddock" means *Melanogrammus aeglefinus*.

"Jonah crab" means *Cancer borealis*, Rock crab.

"Monkfish" means *Lophius americanus*, goosefish.

"Narrowtooth shark" means *Carcharhinus brachyurus*.

"Night shark" means *Carcharhinus signatus*.

"Ocean quahog" means *Arctica islandica* (~~R.I. Gen. Laws § 20-1-3~~).

"Nurse shark" means *Ginglymostoma cirratum*.

"Ocean quahog" means *Arctica islandica*.

"Oyster" means American oyster, *Crassostrea virginica* or European oyster – *Ostrea edulis* (~~R.I. Gen. Laws § 20-1-3~~).

"Pollock" means *Pollachius virens*.

"Porbeagle shark" means *Lamna nasus*.

"Reef shark" means *Carcharhinus perezii*.

"River herring" means blueback herring and alewife.

"Sand lance" means all species of the genus *Ammodytes*.

"Sand tiger shark" means *Carcharias taurus*.

"Scalloped hammerhead shark" means *Sphyrna lewini*.

"Scup" means *Stenotomus chrysops*, porgie.

"Sea scallop" means *Placopecten magellanicus* (~~R.I. Gen. Laws § 20-1-3~~).

"Sharpnose sevengill shark" means *Heptranchias perlo*.

"Shortfin mako shark" means *Isurus oxyrinchus*.

"Silky shark" means *Carcharhinus falciformis*.

"Smalltail shark" means *Carcharhinus porosus*.

"Smooth dogfish" means *Mustelus canis*, smoothhound shark.

"Smooth hammerhead shark" means *Sphyrna zygaena*.

"Soft-shelled clam" means *Mya arenaria*, steamer (~~R.I. Gen. Laws § 20-1-3~~).

"Spanish mackerel means *Scomberomorus maculatus*.

_____ "Spinner shark" means *Carcharhinus brevipinna*.

"Spiny dogfish" means *Squalus acanthias*.

"Striped bass" means *Morone saxatilis*, rockfish, striper.

"Summer flounder" means *Paralichthys dentatus*, fluke.

"Surf clam" means *Spisula solidissima*, sea clam.

"Tautog" means *Tautoga onitis*, blackfish.

"Thorny skate" means *Amblyraja radiata*.

"Tiger shark" means *Galeocerdo cuvier*.

"Weakfish" means *Cynoscion regalis*, Squeteague.

"Whale shark" means *Rhincodon typus*.

"White shark" means *Archarodon carcharias*.

"Winter flounder" means *Pleuronectes americanus*.

"Witch flounder" means *Glyptocephalus cynoglossus*, gray sole.

"Yellowtail flounder" means *Limanda ferruginea*.

1.16 Shellfish and Marine Life Management Areas

- A. Shellfish and Marine Life Management Areas are established by the Director pursuant to R.I. Gen. Laws § 20-3-4.
- B. Greenwich Bay (GB) Shellfish Management Area: The marine waters of Greenwich Bay in its entirety located west of a line extending from the flagpole at the Warwick Country Club (Latitude: 41.672412 Decimal Degrees North, Longitude: -71.389382 Decimal Degrees West) to the end of Sandy Point on the Potowomut Shore (Latitude: 41.662997 Decimal Degrees North, Longitude: -71.408568 Decimal Degrees West), in the town of East Greenwich and city of Warwick.
 1. GB sub-area 1 (western GB): The marine waters located north of a line extending from the far northeastern section of Chepiwanoxet Point (Latitude: 41.674585 Decimal Degrees North, Longitude: -71.441152 Decimal Degrees West) to the western fixed pier on Promenade Street, Old Buttonwoods (Latitude: 41.684468 Decimal Degrees North, Longitude: -71.417575 Decimal Degrees West) in the town of East Greenwich and city of Warwick.

2. GB sub-area 2 (mid-GB): The marine waters located west of a line extending from Sally Rock Point (Latitude: 41.671413 Decimal Degrees North, Longitude: -71.425511 Decimal Degrees West) to the western fixed pier on Promenade Street, Old Buttonwoods (Latitude: 41.684468 Decimal Degrees North, Longitude: -71.417575 Decimal Degrees West); and south of a line extending from the far northeastern section of Chepiwanoxet Point (Latitude: 41.674585 Decimal Degrees North, Longitude: -71.441152 Decimal Degrees West) to the western fixed pier on Promenade Street, Old Buttonwoods (Latitude: 41.684468 Decimal Degrees North, Longitude: -71.417575 Decimal Degrees West) in the town of East Greenwich and city of Warwick.
 3. GB sub-area 3 (eastern GB): The marine waters located east of a line extending from Sally Rock Point (Latitude: 41.671413 Decimal Degrees North, Longitude: -71.425511 Decimal Degrees West) northward to the fixed pier on Promenade Street, Old Buttonwoods (Latitude: 41.684468 Decimal Degrees North, Longitude: -71.417575 Decimal Degrees West); and west of a line extending from the flagpole at the Warwick Country Club (Latitude: 41.672412 Decimal Degrees North, Longitude: -71.389382 Decimal Degrees West) to the end of Sandy Point on the Potowomut Shore (Latitude: 41.662997 Decimal Degrees North, Longitude: -71.408568 Decimal Degrees West) in the town of East Greenwich and city of Warwick.
- C. Conimicut Point Shellfish Management Area: The marine waters located south of a line extending from a pole on Conimicut Point (Latitude: 41.717493 Decimal Degrees North, Longitude: -71.357820 Decimal Degrees West) to the center of the Old Tower at Nayatt Point (Latitude: 41.725121 Decimal Degrees North, Longitude: -71.338957 Decimal Degrees West); and north of a line extending from the western most extension of Samuel Gorton Avenue (Latitude: 41.703781 Decimal Degrees North, Longitude: -71.365120 Decimal Degrees West) in the city of Warwick, to the southern-most extension of Bay Road in the town of Barrington (Latitude: 41.722546 Decimal Degrees North, Longitude: -71.309105 Decimal Degrees West).
- D. Potowomut Shellfish Management Area: The marine waters located south of a line extending from the flagpole at the Warwick Country Club (Latitude: 41.672412 Decimal Degrees North, Longitude: -71.389382 Decimal Degrees West) to the end of Sandy Point on the Potowomut Shore (Latitude: 41.662997 Decimal Degrees North, Longitude: -71.408568 Decimal Degrees West); and north of a line extending from the end of Pojac Point (Latitude: 41.650506 Decimal Degrees North, Longitude: -71.408400 Decimal Degrees West) to buoy G1 "Round Rock" (Latitude: 41.656736 Decimal Degrees North, Longitude: -71.390567 Decimal Degrees West) to the Warwick Lighthouse (Latitude: 41.667124 Decimal Degrees North, Longitude: -71.378385 Decimal Degrees West), including all the marine waters of the Potowomut River seaward of the Forge Road Spillway, in the town of East Greenwich and city of Warwick.

1. Potowomut sub-area 1 (western Potowomut): The marine waters located west of a line extending from the end of Sandy Point on the Potowomut Shore (Latitude: 41.662997 Decimal Degrees North, Longitude: -71.408568 Decimal Degrees West) to buoy G1 "Round Rock" (Latitude: 41.656736 Decimal Degrees North, Longitude: -71.390567 Decimal Degrees West) to the end of Pojac Point (Latitude: 41.650506 Decimal Degrees North, Longitude: -71.408400 Decimal Degrees West) in the town of East Greenwich and city of Warwick.
 2. Potowomut sub-area 2 (mid-Potowomut/closed area): The marine waters within a triangular area located north of a line extending from the end of Sandy Point on the Potowomut Shore (Latitude: 41.662997 Decimal Degrees North, Longitude: -71.408568 Decimal Degrees West) to buoy G1 "Round Rock" (Latitude: 41.656736 Decimal Degrees North, Longitude: -71.390567 Decimal Degrees West); and west of a line extending from the flagpole at the Warwick Country Club (Latitude: 41.672412 Decimal Degrees North, Longitude: -71.389382 Decimal Degrees West) to buoy G1 "Round Rock" (Latitude: 41.656736 Decimal Degrees North, Longitude: -71.390567 Decimal Degrees West); and east of a line extending from the flagpole at the Warwick Country Club (Latitude: 41.672412 Decimal Degrees North, Longitude: -71.389382 Decimal Degrees West) to the seaward end of Sandy Point on the Potowomut Shore (Latitude: 41.662997 Decimal Degrees North, Longitude: -71.408568 Decimal Degrees West) in the town of East Greenwich and city of Warwick.
 3. Potowomut sub-area 3 (eastern Potowomut): The marine waters east of a line extending from the flagpole at the Warwick Country Club (Latitude: 41.672412 Decimal Degrees North, Longitude: -71.389382 Decimal Degrees West) to buoy G1 "Round Rock" (Latitude: 41.656736 Decimal Degrees North, Longitude: -71.390567 Decimal Degrees West); and west of a line extending from buoy G1 "Round Rock" (Latitude: 41.656736 Decimal Degrees North, Longitude: -71.390567 Decimal Degrees West) to the Warwick Lighthouse (Latitude: 41.667124 Decimal Degrees North, Longitude: -71.378385 Decimal Degrees West) in the town of East Greenwich and city of Warwick.
- E. High Banks Shellfish Management Area: The marine waters located south of a line extending from the seaward end of Pojac Point (Latitude: 41.650506 Decimal Degrees North, Longitude: -71.408400 Decimal Degrees West) to buoy G1 "Round Rock" (Latitude: 41.656736 Decimal Degrees North, Longitude: -71.390567 Decimal Degrees West); and west of a line extending from buoy G1 "Round Rock" (Latitude: 41.656736 Decimal Degrees North, Longitude: -71.390567 Decimal Degrees West) to the southeast corner coordinate (Latitude: 41.635211 Decimal Degrees North, Longitude: -71.396539 Decimal Degrees West); and north of a line extending from the seaward end of the fence located between the former Davisville Navy property and Pettee Street in the Mount View

section (Latitude: 41.634401 Decimal Degrees North, Longitude: -71.407115 Decimal Degrees West) to High Banks southeast corner coordinate (Latitude: 41.635211 Decimal Degrees North, Longitude: -71.396539 Decimal Degrees West), in the town of North Kingstown. The southeast corner coordinate is established at the intersection of two lines described as follows: One (1) line extends from the easternmost end of Pier 2 at Davisville (Latitude: 41.615012 Decimal Degrees North, Longitude: -71.402139 Decimal Degrees West) to buoy G1 "Round Rock" (Latitude: 41.656736 Decimal Degrees North, Longitude: -71.390567 Decimal Degrees West); The second line extends from the seaward end of the fence between the former Davisville Navy property and Pettee Street in the Mount View section (Latitude: 41.634401 Decimal Degrees North, Longitude: -71.407115 Decimal Degrees West) to buoy N6 (Latitude: 41.637323 Decimal Degrees North, Longitude: -71.369265 Decimal Degrees West), located mid-bay west of Prudence Island.

- F. Bissel Cove/Fox Island Shellfish Management Area: The marine waters of Bissel Cove in its entirety and adjacent waters of Narragansett Bay located south of a line extending from utility pole #275 at the corner of Waldron and Seaview Avenues (Latitude: 41.553567 Decimal Degrees North, Longitude: -71.429705 Decimal Degrees West) to the southwestern-most point of Fox Island (Latitude: 41.553236 Decimal Degrees North, Longitude: -71.419937 Decimal Degrees West); and west of a line extending from the southwestern-most point of Fox Island (Latitude: 41.553236 Decimal Degrees North, Longitude: -71.419937 Decimal Degrees West) to the northern-most point of Rome point (Latitude: 41.548853 Decimal Degrees North, Longitude: -71.423836 Decimal Degrees West), in the town of North Kingstown.
- G. Mill Gut Shellfish Management Area: The marine waters of Mill Gut in its entirety located south of the northern-most bridge on Colt Drive (Latitude: 41.681840 Decimal Degrees North, Longitude: -71.299113 Decimal Degrees West), in the town of Bristol.
- H. Bristol Harbor Shellfish Management Area: The marine waters of Bristol Harbor and its tributaries located south of a line extending from the CRMC permitted dock #419 located at 163 Poppasquash Road (Latitude: 41.669558 Decimal Degrees North, Longitude: -71.288764 Decimal Degrees West) to the northwest corner of the Rockwell Pier municipal parking lot (Latitude: 41.669742 Decimal Degrees North, Longitude: -71.279250 Decimal Degrees West); and north of a line extending from the north side of CRMC Permitted Dock #1601 where it meets the shoreline (Latitude: 41.664246 Decimal Degrees North, Longitude: -71.290396 Decimal Degrees West), located at 363 Poppasquash Road to the northwest corner of the U.S. Coast Guard station pier (Latitude: 41.666268 Decimal Degrees North, Longitude: -71.278351 Decimal Degrees West); and west of a line extending from utility pole # 20 on Poppasquash Road (Latitude: 41.682529 Decimal Degrees North, Longitude: -71.285175 Decimal Degrees West) to the northern extremity of Hog Island (Latitude: 41.647959 Decimal Degrees North, Longitude: -71.279880 Decimal Degrees West) in the town of

Bristol. The northeast corner coordinate is established at (Latitude: 41.669666 Decimal Degrees North, Longitude: -71.283207 Decimal Degrees West). The Southeast Corner Coordinate is established at (Latitude: 41.665503 Decimal Degrees North, Longitude: -71.282569 Decimal Degrees West).

- I. Kickemuit River Shellfish Management Area: The marine waters of the Kickemuit River in its entirety located north of a line extending from the seaward end of Narrows Road (Latitude: 41.696927 Decimal Degrees North, Longitude: -71.246322 Decimal Degrees West) in the town of Bristol to Nun Buoy 6 (Latitude: 41.698489 Decimal Degrees North, Longitude: -71.244195 Decimal Degrees West) to a point (Latitude: 41.699115 Decimal Degrees North, Longitude: -71.243342 Decimal Degrees West) in the southwestern section of the Little Neck/Touisset section of the town of Warren.
- J. Jenny Creek Shellfish Management Area: The marine waters of Jenny Pond on Prudence Island in its entirety located north of its mouth at its inlet at Pine Hill Cove (Latitude: 41.629838 Decimal Degrees North, Longitude: -71.333696 Decimal Degrees West) in the town of Portsmouth.
- K. Sakonnet River Shellfish Management Area: The marine waters located north of a line extending from Sachuest Point (Latitude: 41.472362 Decimal Degrees North, Longitude: -71.247257 Decimal Degrees West) in the town of Middletown to Sakonnet Light (Latitude: 41.453130 Decimal Degrees North, Longitude: -71.202434 Decimal Degrees West) in the town of Little Compton to Sakonnet Point (Latitude: 41.454587 Decimal Degrees North, Longitude: -71.195124 Decimal Degrees West) in the town of Little Compton; and south of a line extending from a point on the shoreline (Latitude: 41.519498 Decimal Degrees North, Longitude: -71.230893 Decimal Degrees West) in the town of Portsmouth to Brown Point (Latitude: 41.519896 Decimal Degrees North, Longitude: -71.204959 Decimal Degrees West) in the town of Little Compton; and east of a line extending from a point on the shoreline (Latitude: 41.504347 Decimal Degrees North, Longitude: -71.239782 Decimal Degrees West) in the town of Middletown to Flint Point (Latitude: 41.486523 Decimal Degrees North, Longitude: -71.237974 Decimal Degrees West) in the town of Middletown.
- L. Point Judith Pond Shellfish Management Area: The marine waters of Point Judith Pond in its entirety located east of the bridge at Succotash Road (Latitude: 41.386004 Decimal Degrees North, Longitude: -71.526019 Decimal Degrees West) in the town of South Kingstown; and north of the mouth of the breachway where it meets the Harbor of Refuge (Latitude: 41.375149 Decimal Degrees North, Longitude: -71.513755 Decimal Degrees West) in the town of Narragansett.
- M. Potter Pond Shellfish Management Area: The marine waters of Potter Pond in its entirety located west of the bridge at Succotash Road (Latitude: 41.386004 Decimal Degrees North, Longitude: -71.526019 Decimal Degrees West) in the town of South Kingstown.

1. Potter Pond sub-area 1 (closed area): The marine waters of Sycamore Cove located north of a line extending easterly from point "A" (Latitude: 41.383435 Decimal Degrees North, Longitude: -71.537009 Decimal Degrees West) to point "B" (Latitude: 41.383661 Decimal Degrees North, Longitude: -71.533286 Decimal Degrees West); from point "B" following the Sycamore Cove shoreline approximately six hundred thirty-eight (638) meters back to point "A."
- N. Ninigret (Charlestown) Pond Shellfish Management Area: The marine waters of Ninigret Pond in its entirety located west of the bridge at Charlestown Beach Road (Latitude: 41.364173 Decimal Degrees North, Longitude: -71.625958 Decimal Degrees West) in the town of Charlestown; and north of the mouth of Charlestown Breachway (Latitude: 41.354865 Decimal Degrees North, Longitude: -71.638536 Decimal Degrees West) in the town of Charlestown.
1. Ninigret Pond sub-area 1 (western closed area): The marine waters within an area enclosed by the following points and boundaries: from point "A" at the north end of the Ninigret Conservation Area parking lot (Latitude: 41.344726 Decimal Degrees North, Longitude: -71.690149 Decimal Degrees West); following the Ninigret Conservation Area shoreline approximately five hundred eighty (580) meters eastward to point "B" (Latitude: 41.346815 Decimal Degrees North, Longitude: -71.683958 Decimal Degrees West); from point "B" approximately one thousand three hundred eighty-two (1,382) meters northward to point "C" at the Ninigret Landing Marina (Latitude: 41.358561 Decimal Degrees North, Longitude: -71.689409 Decimal Degrees West); from point "C" following the shoreline approximately nine hundred sixty-two (962) meters westward to "D" at the westernmost end of Reeds Point (Latitude: 41.352794 Decimal Degrees North, Longitude: -71.694621 Decimal Degrees West); from point "D" approximately nine hundred seventy-one (971) meters southward to point "A", completing the final boundary.
 2. Ninigret Pond-Foster Cove sub-area 1 (northern closed area): The marine waters within an area enclosed by the following points and boundaries: from point "A" on the Foster Cove shoreline (Latitude: 41.366362 Decimal Degrees North, Longitude: -71.676036 Decimal Degrees West); from point "A" approximately forty-six (46) meters southward to point "B" (Latitude: 41.365970 Decimal Degrees North, Longitude: -71.676220 Decimal Degrees West); from point "B" approximately eighty-two (82) meters eastward to point "C" (Latitude: 41.365690 Decimal Degrees North, Longitude: -71.675310 Decimal Degrees West); from point "C" approximately forty-six (46) meters northward to point "D" (Latitude: 41.366086 Decimal Degrees North, Longitude: -71.675128 Decimal Degrees West); from point "D" following the shoreline approximately one hundred nine (109) meters eastward to point "A" completing the final boundary.

3. Ninigret Pond-Foster Cove sub-area 2 (eastern closed area): The marine waters within twenty-five (25) meters of the shoreline surrounding the Ninigret National Wildlife Refuge western point enclosed by the following points and boundaries: from point "A" on the Foster Cove shoreline (Latitude: 41.363705 Decimal Degrees North, Longitude: -71.673512 Decimal Degrees West); following the shoreline approximately 209 meters westward to point "B" at the end of the point (Latitude: 41.364515 Decimal Degrees North, Longitude: -71.675236 Decimal Degrees West); from point "B" following the shoreline approximately one hundred eighty-three (183) meters eastward to point "C" (Latitude: 41.364330 Decimal Degrees North, Longitude: -71.673220 Decimal Degrees West).
- O. Quonochontaug Pond Shellfish Management Area: The marine waters of Quonochontaug Pond in its entirety located north of the mouth of Quonochontaug Breachway (Latitude: 41.330878 Decimal Degrees North, Longitude: -71.718764 Decimal Degrees West) in the towns of Charlestown and Westerly.
1. Quonochontaug Pond sub-area 1 (western closed area): The marine waters within an area enclosed by the following points and boundaries: the waters south of a line extending approximately nine hundred eleven (911) meters easterly from "A" on the southern end of Quahaug Point (Latitude: 41.333330 Decimal Degrees North, Longitude: -71.744365 degrees West) in the town of Westerly; to "B" at the northern end of Nope's Island (Latitude: 41.334528 Decimal Degrees North, Longitude: -71.733593 Decimal Degrees West) in the town of Westerly; from "B" following the Quonochontaug Barrier shoreline generally westward, approximately one thousand five hundred forty-five (1,545) meters to "C" in the town of Westerly (Latitude: 41.330564 Decimal Degrees North, Longitude: -71.744459 degrees West); from "C" approximately three hundred seven (307) meters northward to "A" completing the final boundary, in the town of Westerly.
 2. Quonochontaug Pond sub-area 2 (eastern closed area): The marine waters within an area enclosed by the following points and boundaries: the waters east of a line extending approximately six hundred seventy-three (673) meters southerly from point "A" on the eastern end of the QYC stone pier (Latitude: 41.350312 Decimal Degrees North, Longitude: -71.709292 degrees West) in the town of Charlestown; to point "B" at the eastern end of the unnamed island (Latitude: 41.344710 Decimal Degrees North, Longitude: -71.712336 Decimal Degrees West) in the town of Charlestown; from point "B" following the Quonochontaug Pond shoreline generally northward, approximately one thousand one hundred twenty (1,120) meters back to point "A" completing the final boundary.
- P. Winnapaug Pond Shellfish Management Area: The marine waters of Winnapaug Pond in its entirety located north of the mouth of Weekapaug Breachway

(Latitude: 41.327627 Decimal Degrees North, Longitude: -71.762913 Decimal Degrees West) in the town of Westerly.

1. Winnapaug Pond sub-area 1 (closed area): The marine waters within an area enclosed by the following points and boundaries: the waters north of a line extending approximately one thousand two hundred thirty nine (1,239) meters easterly from point "A" on the southeastern portion of Big Rock Point (Latitude: 41.330229 Decimal Degrees North, Longitude: -71.799555 Decimal Degrees West) in the town of Westerly; to point "B" at the southern end of Larkin's Island (Latitude: 41.331958 Decimal Degrees North, Longitude: -71.784941 Decimal Degrees West) in the town of Westerly; from point "B" approximately one hundred nineteen (119) meters northwesterly to point "C" adjacent to the end of Bayside Avenue (Latitude: 41.332611 Decimal Degrees North, Longitude: -71.786066 Decimal Degrees West) in the town of Westerly; from point "C" following the shoreline generally westward, approximately one thousand five hundred ninety (1,590) meters to point "A", completing the final boundary.
- Q. Green Hill Pond Shellfish Management Area: The marine waters of Green Hill Pond in its entirety located east of the bridge at Charlestown Beach Road (Latitude: 41.364173 Decimal Degrees North, Longitude: -71.625958 Decimal Degrees West), in the towns of Charlestown and South Kingstown.
- R. Narrow River Shellfish Management Area: The marine waters of the Narrow River in its entirety located west and north of its mouth at the Narrows (Latitude: 41.442019 Decimal Degrees North, Longitude: -71.440679 Decimal Degrees West) in the town of Narragansett; south of Gilbert Stuart Rd. (Latitude: 41.519845 Decimal Degrees North, Longitude: -71.444608 Decimal Degrees West) in the town of and North Kingstown; and north of Mumford Rd. (Latitude: 41.439006 Decimal Degrees North, Longitude: -71.473478 Decimal Degrees West) in the town of Narragansett.
- S. Little Narragansett Bay and Pawcatuck River Shellfish Management Area: The marine waters of Little Narragansett Bay and Pawcatuck River within the State of Rhode Island located northeast of a line extending from the DEM range marker on a pole near the southeastern extremity of Sandy Point (Latitude: 41.321703 Decimal Degrees North, Longitude: -71.878691 Decimal Degrees West) to a DEM range marker on a pole on the northern shoreline of Napatree Point (Latitude 41.310300 Decimal Degrees North, Longitude -71.877500 Decimal Degrees West), including all waters of the "Kitchen" so called, and those waters northeast of the southwest shoreline of Sandy Point to the State line (and south of the Route 1 Bridge (Latitude: 41.377688 Decimal Degrees North, Longitude: -71.831481 Decimal Degrees West) in the town of Westerly.
- T. Providence and Seekonk Rivers Shellfish Management Area: The marine waters of the Providence and Seekonk Rivers and their tributaries located north of a line extending from the flagpole on Conimicut Point in the city of Warwick (Latitude:

41.717493 Decimal Degrees North, Longitude: -71.35820 Decimal Degrees West) to the center of the Old Tower at Nayatt Point in the town of Barrington (Latitude: 41.725121 Decimal Degrees North, Longitude: -71.338957 Decimal Degrees West); and southerly and seaward of the Hurricane barrier (Latitude: 41.815785 Decimal Degrees North, Longitude: -71.401958 Decimal Degrees West) in the city of Providence; and southerly and seaward of the Main Street Dam (Latitude: 41.876594 Decimal Degrees North, Longitude: -71.383100 Decimal Degrees West) in the in the city of Pawtucket.

- U. Warren River Shellfish Management Area: The marine waters of the Warren River and its tributaries located north and east of a line extending from the flagpole at 178 Adams Point Road in town of Barrington (Latitude: 41.716089 Decimal Degrees North, Longitude: -71.293291 Decimal Degrees West) to the DEM range marker at Jacobs Point in the town of Warren (Latitude: 41.714306 Decimal Degrees North, Longitude: -71.286673 Decimal Degrees West); and southerly and downstream of the Main Street/Route 114 bridge at its intersection with the Barrington River in the town of Barrington (Latitude: 41.736701 Decimal Degrees North, Longitude: -71.295451 Decimal Degrees West); and southerly and downstream of the Main Street/Route 114 bridge at its intersection with the Palmer River in towns of Bristol and Warren (Latitude: 41.737396 Decimal Degrees North, Longitude: -71.289081 Decimal Degrees West).
- W. Town Pond Shellfish Management Area: The marine waters of Founders Brook and Town Pond in their entirety located south of the tidal connection to Mount Hope Bay in the town of Portsmouth (Latitude: 41.638944 Decimal Degrees North, Longitude: -71.245269 Decimal Degrees West).
- X. Jacobs Point Shellfish Management Area: The marine waters of the Warren River located south of a line extending from the DEM range marker on the shore north of Jacobs Point (Latitude: 41.714306 Decimal Degrees North, Longitude: -71.286673 Decimal Degrees West) to nun buoy 12 in the town of Warren (Latitude: 41.713780 Decimal Degrees North, Longitude: -71.291593 Decimal Degrees West); and east of a line extending from nun buoy 12 to the DEM range marker on the shore south of Jacobs Point in the town of Bristol (Latitude: 41.710253 Decimal Degrees North, Longitude: -71.291327 Decimal Degrees West).
- Y. Upper Sakonnet River Marine Life Management Area: The marine waters of the Sakonnet River north of a line extending from McCurry Point in the town of Portsmouth to the southern end of Jack's Island (so-called) in the town of Tiverton, and south of the Sakonnet River Bridge (Rt. 24).
- Z. Upper Narragansett Bay Marine Life Management Area: The marine waters north of a line extending from Spink Neck in the town of North Kingstown to Pine Hill Point on Prudence Island, and from Homestead Dock on the easterly shore of Prudence Island to the Hog Island Shoal Light in the town of Bristol; and south of a line extending from Sandy Point to the southern tip of Warwick Point in the city

of Warwick; and from the dock at Rocky Point in the city of Warwick to the southern tip of Poppasquash Point to Hog Island Shoal Light in the town of Bristol.

- AA. Menhaden Management Area: Narragansett Bay in its entirety is designated a Menhaden Management Area pursuant to R.I. Gen. Laws § 20-4.1-1. This area shall include the east and west passages of Narragansett Bay, Mount 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.



RHODE ISLAND

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

DIVISION OF MARINE FISHERIES

Three Fort Wetherill Road
Jamestown, Rhode Island 02835

Summary of Public Hearing Comments

Agency: Department of Environmental Management

Division: Marine Fisheries

Regulations:

- Part 1 – Definitions and General Provisions (250-RICR-90-00-1)
- Part 3 – Finfish (250-RICR-90-00-3)
- Part 7 – Dealers
- Part 12 – Research Pilot Aggregate Program (250-RICR-90-00-12)
- Part 14 – Summer Flounder Exemption Certificate Program (250-RICR-90-00-14)
- Part 23 (proposed new rule adoption) - Aggregate Programs for Summer Flounder and Black Sea Bass

Type of Filing: Amendments/Adoption

Timetable for action on the proposed rule:

- Date of public notice: February 22, 2023
- Date of hearing: March 6, 2023
- End of comment period: March 23, 2023

Testimony and Comments:

The public hearing was recorded and is publicly available on the Division of Marine Fisheries YouTube channel [here](#). ***This document represents a synopsis of the comments provided; it does not include supporting details and rationale that may have been provided.***

1. Definitions and General Provisions:

- One written comment received regarding the proposed definition of “medical hardship” that it “*potentially significantly narrows the circumstances that constitute a “medical hardship,” and more concerningly, it would eliminate any medical condition that is not physical in nature. It would thus appear to exclude a*

person from qualifying for a temporary operator's permit if their medical condition involves mental, rather than physical, illness."

2. 2023 Recreational Black Sea Bass Management:

- 7 comments in support of proposal #2
- RIPCBA in support of proposal #2
- RISAA in support of proposal #4
- 4 comments in support of proposal #4
- 2 comments in support of status quo

3. 2023 Recreational Scup Management:

- RISAA in support of proposal # 1
- RIPCBA in support of proposal #1
- 4 comments in support of proposal #1
- 1 comment in support of proposal # 2

4. 2023 Commercial General Category Striped Bass Management:

- 7 comments in support of proposal #1
- 2 comment in support of proposal # 2
- 8 comments in support of proposal # 3
- Division of Law Enforcement opposed to removal of commercial "possession" on closed days
- 1 comment opposed to closed days not in continuity (i.e., alternating closed and open days)
- 1 comment that "there be timely and meaningful negative consequences instituted for report timing noncompliance to avoid a reoccurrence of 2022's Striped Bass fishery management failure"
- RIPCBA in support of status quo
- 2 comments in support of status quo
- 1 comment in support of either proposal #4 or #5

5. Commercial Menhaden Management:

- 4 comments in support of proposal # 1 (Division proposal)
- 6 comments opposed to proposal # 2 (industry proposal)
- Save the Bay opposed to proposal # 2
- ARC Bait in support of the following:
 - Move the east and west passage's most southern menhaden management area boundary lines north to the Sakonnet and Jamestown bridge after September 1st; in conjunction with that the landing limit would be 120,000 lbs per vessel per day from the new boundary lines south if the management area was closed.

- After the spring migration of fish leave Narragansett bay, we would like the TAC to reset in the management area if fish return in the fall.
 - During the instance that the management area is closed we believe you should consider going to a 40,000lbs weekly limit rather than a 120,000lbs limit.
 - 1 comment in support of eliminating the MMA and biomass triggers
 - 4 comments in support of the proposal #2
 - 1 comment in support of proposal # 2, with a lower possession limit of 50,000 lbs/vsl/week if 120,000 lbs/vsl/week not supported
 - 1 comment in support of management that supports full utilization of quota
 - RIPCBA in support of proposal #1 and opposed to proposal #2
6. Dealers – Striped Bass Reporting (Part 7 – Dealers)
- 3 comments in support of the proposed rule as noticed
7. Aggregate Program for Summer Flounder and Black Sea Bass:
- 1 comment in support of the rule as noticed (division proposal)
 - Town Dock in support of the proposed rule as noticed (Division proposal)
 - Support participation in both the winter and summer subperiods (i.e., not one or the other)
 - Opposed to 7X daily possession limit for black sea bass
 - Opposed to small mesh gear restrictions while participating in the aggregate program.
 - 2 comments opposed to requiring a Summer Flounder Exemption Certificate for participants in the summer/fall subperiod to land >300 lbs/vsl/day
 - 1 comment in support of the industry proposal which would provide 50% of the weekly possession for vessels without a Summer Flounder Exemption Certificate
 - 1 comment in support of requiring a Summer Flounder Exemption Certificate for the summer/fall season
 - 2 comments opposed to allowing participating in both the Winter and Summer/Fall subperiods
 - 1 comment in support of 7X daily possession limit for black sea bass
 - 1 comment in support of maintaining 5X daily possession limit for black sea bass
 - 1 comment in support of X daily possession limit for black sea bass from May 1 – Aug. 15 and 5X the daily possession limit from Aug. 16 – Dec. 31
 - 1 comment in support of an 80% closure trigger
 - 1 comment in support of a 90% closure trigger
 - 2 comments opposed to all proposals
 - 1 comment in support of continuing as a pilot program for an additional year
8. Summer Flounder Exemption Certificate Program Possession Limit:
- 1 comment in support of the proposed rule

- Town Dock in support of the proposed rule
 - 1 comment that the proposed possession limit increase is not enough
 - 1 comment in support of increasing the possession limit to unlimited
 - 1 comment opposed to the proposed rule
 - 1 comment in support of increasing the possession limit from 200 lbs/vsl/day to 400-500 lbs/vsl/day
9. Other non-substantive (i.e., clarifications) proposed amendment to Part 3 Summer Flounder Exemption Certificate Program Possession Limit:

From: CaptRichT1@aol.com
To: [Duhamel, Peter \(DEM\)](#)
Subject: 2023 Black Sea Bass recreational guidelines
Date: Wednesday, March 22, 2023 8:22:28 AM

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Hello,

I am the owner operator of the charter boat Restless out of Point View Marina. I have been in business for over 30 years. As a charter boat captain my job is to entertain the people on my boat through fishing. Many of my customers live in RI and have friends etc. that fish either recreationally or commercially via rod and reel. It has become increasingly difficult to keep people interested when I have to explain to them why, they have to throw back fish that their friends are able to keep. In the case of Black Sea Bass, I support increasing the size limit to 16.5 inches for the private recreational sector (giving them an additional 5 days in the 2 fish possession season), and leaving the charter group status quo at 16 inches.

Thank you for your consideration and support of the Charter/Party Boat industry.
Captain Rich Templeton
Charter Boat Restless

From: [Bryan Nimirosky](#)
To: [Duhamel, Peter \(DEM\)](#)
Subject: Comment regarding Commercial Striped Bass
Date: Tuesday, March 14, 2023 7:47:57 AM

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Good morning, I am writing today as a stakeholder involved in Yhe upcoming striped bass season. My recommendation is to follow the division recommendation of option 1, having open days of Mon Tuesday Wednesday. I believe this will be easiest for enforcement as opposed to having Mon, Tues, Thursday , having to be off water midnight by Midnight. Thank you for allowing input

Brian Nimiroski

From: rifish@verizon.net
To: [Duhamel, Peter \(DEM\)](#)
Subject: Comments from 3/6/23 public hearing
Date: Tuesday, March 7, 2023 3:19:18 PM

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Hi Peter, my comments are as follows;

- Striped Bass - I prefer industry proposal # 3.

I am baffled that the Black Sea Bass regulations are getting more strict instead of being increased. They are everywhere and in huge numbers. The same applies to Scup.

The fish that has steadily been declining along the southern beaches is the Summer Flounder. I'm guessing competition from the Sea Bass for food isn't helping that fishery.

Thanks.
Dave.

From: [David Blackburn](#)
To: [Duhamel, Peter \(DEM\)](#)
Cc: [Kenneth Booth](#)
Subject: Compliance
Date: Saturday, March 18, 2023 3:32:37 PM

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Dear Peter,

As I am certain you are well aware, the published mission statement of RI DMF is "To manage and and enhance Rhode Island's resources and habitat through sound science, informed management decisions and education". Having run a close a 40 million dollar a year corporation with 350 employees and an international sales and supplier base I am keenly aware of the criticality of timely and accurate data and information in making critical decisions and achieving mission objectives.

The fiasco that was represented by last year's management of the commercial Striped Bass fishery resulted in a quota distribution failure between sub periods resulting in no more than a token opening of the second sub period and a yearly landings total which was significantly above our federal allocation resulting in a loss of quota for 2023 that seems to have as it's root cause a failure of timely data supply to DMV. More specifically, based upon DEM statements, was the fact that 80% of dealers were in non-compliance with DEM's timeliness of reporting requirements and yet no corrective actions were initiated.

It is my understanding that new rules for 2023 are in place that should enhance timeliness of catch data. However, when I asked at the last meeting what the consequence(s) for dealer noncompliance would be the response was that "we haven't discussed that yet" - or something approximating that statement.

I would respectfully request that as part of the management plan for 2023 there be timely and meaningful negative consequences instituted for report timing noncompliance to avoid a reoccurrence of 2022's Striped Bass fishery management failure.

Sincerely,

David A Blackburn

RICCRA Treasurer



**RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

Division of Law Enforcement
235 Promenade Street, Room 250
Providence, RI 02908

401-222-3070
Fax 401-222-6823
Telecommunication for Hearing Impaired 711

March 6, 2023

Conor McManus
Department of Environmental Management
Division of Marine Fisheries
3 Ft. Wetherill Rd.
Jamestown, RI 02835

Dear Dr. McManus,

The RI DEM Division of Law Enforcement submits the following public comment regarding the proposed regulation amendments to Part 3 of the Division of Marine Fisheries Regulations.

All the proposed regulation changes to “Commercial General Category Striped Bass” include the deletion of “There will be no commercial possession” in section 250-RICR-90-3.11.2.A.3.b.(3).

(3) The fishery will be closed in each calendar week on **Thursday**, Friday, Saturday and Sunday during this sub-period. ~~There will be no commercial possession or s~~ Sale of striped bass on these days for general category commercial fishermen **is prohibited**.

We are opposed to the changes to this section and request that the prohibition on commercial possession on closed days be kept in place. Deleting this section would allow for commercial fishermen to fish on closed days for sale on open days. It would also provide more opportunity for “stockpiling” of fish for later sale in this state or neighboring states.

The Division would also prefer for the closure days to be consecutive. Illegally commercial fishing from dusk – midnight the evening prior to an open day or landing fish in the early morning hours of closed days is a common violation encountered and having non-consecutive days would introduce additional time when officers would have to combat these illegal practices.

Thank you for your consideration.

Sincerely,

Dean Hoxsie
Chief, RI DEM Environmental Police

From: [Aaron Scripps](#)
To: [Duhamel, Peter \(DEM\)](#)
Subject: proposed regulations
Date: Monday, February 27, 2023 8:15:16 AM

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Good Morning Peter,

I am writing in response to upcoming proposed regulations. I am personally not in favor of any of the striped bass proposals. If I had to choose, it would be proposal #1. I strongly oppose taking away available fishable days during the week, this can cause lack of income and hardship due to foul weather conditions. This can create a dangerous situation with small vessels trying to capitalize on small opportunity windows. I don't think removing days from such a small quota is going to effect the sustainability of this fishery. I have been on the water nearly every day the past few years and everything I have observed leads me to believe that the current health of the striped bass population is very good. I have seen more small and large fish even when not targeting them these past few years than I have in the past 20! I think that we should try to stay inline with Massachusetts quota and season as we do on the recreational side. I would also recommend using more up to date data to assess the current status of any fishery. Thank's for your time.

R/Aaron Scripps

[Sent from Yahoo Mail on Android \[go.onelink.me\]](#)

From: [STEPHEN BURKE](#)
To: [Duhamel, Peter \(DEM\)](#)
Subject: striped bass proposal
Date: Tuesday, March 21, 2023 9:43:23 AM

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Commercial General Category Striped Bass - Proposal #1
stephen burke #rstnd22010424
thanks

From: [Sean Moreschi](#)
To: [Duhamel, Peter \(DEM\)](#)
Subject: Public Comment Striped Bass
Date: Wednesday, March 15, 2023 5:29:34 PM

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Hello Mr Durhamel,

I would like to comment on Striped Bass Commercial General Category Management:
I support Option 3.

Regards,
Sean Moreschi
Multi-purpose license holder
Rod-n-reel / Spearfishing Harvester.

Sent from my iPhone

From: [Greg Renzulli](#)
To: [Duhamel, Peter \(DEM\)](#)
Subject: · Proposed amendments to commercial striped bass general category management
Date: Tuesday, March 7, 2023 12:03:09 PM

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Hello my name is Greg Renzulli License # RSDNT 22010350. I am writing to support in support of :

b. Proposal #2 (industry proposal):

- Eliminate two sub-periods and adopt single season with 100% allocation from June 1 – December 31;
- Add additional closed days on Tuesdays and Thursdays.

The commercial striped bass fishery is not even a viable option for income anymore for someone who works on the water full time. Our quota has been reduced down to nothing while our neighbors in Massachusetts have ten times our quota! How am I supposed to make an income off of ten fishing days? We need to fix this in many more ways than the proposals put forth. There needs to be a quota restructuring and we need to start using data available from the present times instead of using data from thirty plus years ago. Furthermore increased license availability and effort are taking place while we get reduced in quota each year. Even if the dealer reporting was an issue and created overage, why is it the fishermen suffer once again?

As for the 2023 season I support the above proposal because with the little quota we even have it would be nice to stretch the effort out and hopefully with reduced days per week create a better market for the few fish we will be selling.

From: [Janice Lachance](#)
To: [Duhamel, Peter \(DEM\)](#)
Subject: Commercial Striped Bass Proposal
Date: Wednesday, March 8, 2023 12:47:02 PM

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Dear Peter:

My name is Raymond A. Jobin, Holder of Commercial License #MULT0612.

I would like to go record as a Supporter of Proposal #3/Striped Bass General Category.

Respectfully submitted,

Raymond A. Jobin
rayjobin68@aol.com

From: [James Boyd](#)
To: [Duhamel, Peter \(DEM\)](#)
Cc: [Lengyel, Nicole \(DEM\)](#); [Lake, John \(DEM\)](#); [Bo Christiansen](#)
Subject: Comments concerning proposed rule amendment 250-RICR-90-00-3 - Finfish
Date: Wednesday, March 22, 2023 3:17:04 PM

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Dear Mr. Duhamel,

I am submitting the following comments concerning amendments for the striped bass season as presented in Subpart § 3.11.2(A) of the above referenced rules. I am in support of Industry proposals 4 and 5.

As recently as the 2020 regulations (250-RICR-90-00-3) the commercial striped bass season opened on May 20. In the last couple years, however, the season has opened later on June 1. I am in support of an earlier opening May 22 to allow commercial fishermen who fish primarily in Narragansett Bay to catch striped bass before they leave the Bay for cooler nearshore waters, including Block Island. Global warming has increased water temperatures of Narragansett Bay by 1.2 °C since 1950. Thus, bait fish and stripers are arriving earlier in the Bay than in decades past. This fact justifies the proposed May 22 opening to accommodate Bay fishermen. The later openings favor Point Judith fishermen and disadvantage fisherman who primarily are fishing within Narragansett Bay. Both Industry proposal 4 and 5 are consistent with the Division's proposal to reduce fishing effort to 3 days/week with the exception for an earlier (by one week) May 22 opening.

Thank you for your consideration.

Sincerely - Jim

James Boyd
130 Miller Avenue
Rumford, RI 02916
jrboyd130@gmail.com

From: [Joe Macari](#)
To: [Duhamel, Peter \(DEM\)](#)
Cc: [Lengyel, Nicole \(DEM\)](#); [Lake, John \(DEM\)](#)
Subject: Public Hearing -March 6
Date: Tuesday, March 7, 2023 2:55:12 PM

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Hi Peter-

The following comments are in response to the Public Hearing on March 6, 2023

-I would like to submit support of Proposal 1 for the General Category-Commercial Striped Bass for 2023, i.e., **Division Proposal**

-I am in favor of the Division proposal for **Dealers - Striped Bass Reporting**

-I am NOT in favor for any proposed Industry or Division proposals/changes relative to **Summer Flounder Exemption Certificate Program or Aggregate (Summer/Fall) Program for Summer Flounder and Black Sea Bass**

-Menhaden - 2023 Commercial Management –I am in favor of Proposal 1 – Division Proposal

-Menhaden - 2023 Commercial Management-I am NOT in favor of Proposal 2 – Industry Proposal

Respectfully-

Joe Macari

License # RSTND22010474

[Jmacari1@cox.net](mailto:jmacari1@cox.net)

From: [Bill Barbour](#)
To: [Duhamel, Peter \(DEM\)](#)
Subject: I also agree with joe macari
Date: Monday, March 13, 2023 10:55:14 AM

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Sent from my iPhone

Captain Mark Sherer
Gannet Outdoor Adventures
1059 Frenchtown Road
East Greenwich, RI 02818

March 12, 2023

Mr. Pete Duhamel
3 Fort Wetherill Road
Jamestown, RI 02835

Dear Mr. Duhamel:

At the March 6, 2023 Public Hearing, DEM listed five proposals for Commercial General Category Striped Bass Management. It is my recommendation to accept the Department proposal number 1. Any proposal that does not have consecutive fishing days, creates an enforcement issue and a logistics issue for fishermen who fish at night and sell their catch the following morning.

Very truly yours;

A handwritten signature in cursive script that reads "Mark H. Sherer". The signature is written in black ink and is positioned above the printed name.

Mark Sherer

From: [Bill Barbour](#)
To: [Duhamel, Peter \(DEM\)](#)
Subject: [I concur with mark Sherer](#)
Date: Monday, March 13, 2023 10:52:49 AM
Attachments: [Doc - Mar 13, 2023 - 8-48 AM.pdf](#)

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From: [Capt. John Rainone](#)
To: [Duhamel, Peter \(DEM\)](#)
Subject: comments of public hearing
Date: Wednesday, March 22, 2023 1:16:24 PM

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Hi Peter, I am an owner operator of L'il Toot Charters in Pt. Judith RI. I have been making a living on the ocean taking recreational fishermen out fishing for 43 yrs. Sometimes the regulations have made it difficult for the Charter Boat Fleet to operate and compete with our neighboring States and our own recreational sector in RI.

We have seen some changes made in previous years allowing the For Hire Fleet a different set of Regs from the Recreational Sector. I think this is a great idea and should be applied to all species of fish. It should also be used Coastwise in all neighboring States.

I believe the For Hire Fleet should have Status Quo in Bluefish, Tautog, Striped Bass and especially Sea Bass. We need to have a decent bag limit in order to attract anglers from neighboring states to fish with us. This helps bring money into our state through Tourism. We are a small number of boats and have not increased in size compared to the Recreational Community. They have far exceeded the For Hire industry in growth and fish taken from the biomass, and they are constantly growing from shore, kayaks, and boats. We are a business oriented fishery just like the Commercial Industry, and we should be treated the same with regard to having enough fish allotted to us to maintain our businesses.

Thanks,
John Rainone

--

Capt. John Rainone
L'il Toot Charters
35 Ocean View Dr.

Narragansett RI 02882

401-783-0883 401-497-6683 C

www.LilTootCharter.Com [liltootcharter.com]

www.facebook.com/pages/Lil-Toot-Charters/268318656187 [[facebook.com](https://www.facebook.com)]

Dear Rhode Island Marine Fisheries Council,

As a full time RI State Waters commercial fisherman I support the following proposals.

Menhaden Commercial Management- **I support proposal 2.** In light of the quota increase the state received, regulations must be relaxed in order to allow fishermen to harvest the quota we are allocated. Current regulations are so strict, it did not allow us to harvest our ~2 million pound quota last year. With an increase to ~5 millions pounds this year, regulations need to be relaxed to allow for more harvest. The current way the menhaden management area is set up has prevented local, smaller boats from getting into the fishery. I believe public outcry would be significantly lessened if you had local 30-49ft boats taking part in the fishery vs 70+ft boats whom are often from out of state. A smaller daily or weekly limit that was not subject to the MMA would achieve this.

Aggregate Program for Summer Flounder and Black Sea Bass- **I support industry proposal 3b.** I am the industry member who made this proposal as I believe Aggregate Program members should not lose 2 days a week of Black Sea Bass limit by participating in the program. There are 7 days in a week, not 5. As a full time fisherman who fishes every day I am being punished by losing 2 days of BSB limit in order to access the efficiency offered by the Aggregate Program. I totally understand the implications of this years quota decrease and I designed my proposal conservatively to accommodate. I only proposed possession limits of 7x the daily limit in the summer when the daily limit is 50lbs. I felt that in light of the quota decrease 7x the daily limit in the fall sub periods where the possession limit is 100lbs a day would be too aggressive and lead to quota exhaustion before the end of the sub periods. In the summer season (May 1 to Aug 15) last year the weekly limits started at $5 \times 75\text{lbs} = 375\text{lbs}$ per week. In both summer sub periods, this was quickly raised to $5 \times 100\text{lbs} = 500\text{lbs}$ per week. There were more days at the higher limit than the lower so conservatively we can say the weekly aggregate limit was ~ 450lbs per week. My current proposal is for a 350lb weekly limit in the summer sub periods, which is plenty conservative to account for the quota decrease. Lastly, the 80% trigger will ensure that even with a quota decrease we will not have closures. The last 20% of quota at 50lbs per day with no aggregate will be enough to ensure we don't use up the quota before the end of the sub period.

Thank you for your time,
Ken Murgo

From: [eric](#)
To: [Duhamel, Peter \(DEM\)](#); [Lengyel, Nicole \(DEM\)](#)
Subject: menhaden proposal comment
Date: Tuesday, March 21, 2023 1:02:15 PM

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After attending the meeting on March 6th and hearing the concerns of the different rod and reel fishing organizations, I would like to propose a weekly limit of 75,000lbs with a daily limit of 25,000lbs for the menhaden fishery inside the Narragansett Bay management area. This will allow a small operation to fish Monday thru Friday at 15,000lbs a day. My operation is a medium sized where I am surveyed to carry 25,000lbs; this management proposal would allow me 3 days a week. My hope in adding to the current rules is to incentivize the local fleet to get involved in the menhaden seine fishery. If the state were to allow a reasonable possession limit in the Narragansett Bay management area from May to December it would give Rhode Islands smaller boat fleet a better opportunity to take part in the states menhaden seine fishery.



Menhaden Proposals

Atlantic Red Crab Company
Benthic Huntress LLC

Overview

We would like to propose three new rule changes for the state of Rhode island to consider to make the state menhaden fishery more efficient and user friendly.

Proposals

1. Move the east and west passage's most southern menhaden management area boundary lines north to the sakonnet and jamestown bridge after september 1st. In conjunction with that the landing limit would be 120,000 lbs per vessel per day from the new boundary lines south if the management area was closed.
2. After the spring migration of fish leave Narragansett bay we would like the tac to reset in the management area if fish return in the fall.
3. During the instance that the management area is closed we believe you should consider going to a 40,000lbs weekly limit rather than a 120,000lbs limit, which was proposed.

Reasoning

1. We are proposing this because we believe this will not only increase the state's chance to catch the new and increased quota that has been allotted, but it will also give fishermen an area that they can work in that will be much safer during fall weather.
2. We are proposing this because we believe that when fish leave narragansett bay during the spring enough to a point that the management area closes that returning fish represent a completely different body of fish. Therefore, being a different body of fish, the rolling tac that is assessed to the bay's biomass of menhaden should be reset back down to the 2,000,000lbs threshold for a potential bay opening.

3. We are proposing this because we believe as it is right now, there is a good relationship and level of respect between menhaden seiners and the commercial and recreational sport fishermen that rely on menhaden for part of their business. If the bay is closed due to low number of menhaden we don't think it would be the best look to be able to let menhaden seiners fish in closed waters five days a week with a weekly cap of 120,000lbs. We do understand it would create an opportunity for other residents to participate in the menhaden fishery which is always good, but believe it would be best if it was kept to one day per week or lower the limit to 40,000lbs per week.

Conclusion

On behalf of the Atlantic red crab company and benthic huntress LLC we believe these 3 proposals would help better the menhaden fishery in rhode island in such a way that it would increase rhode island landings, create a safer working environment, and present great opportunity and relationships for the commercial fishing community. Please consider these proposals and any feedback or points of views on these we would greatly appreciate.

Best regards

ARC

Benthic fishing LLC

From: [Zachary St.](#)
To: [Duhamel, Peter \(DEM\)](#)
Subject: Commercial menhaden management
Date: Thursday, March 23, 2023 11:11:52 AM

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Hello Pete I am a commercial fisherman and support option two for the commercial menhaden management
Sent from my iPhone

From: [Spencer Bode](#)
To: [Duhamel, Peter \(DEM\)](#); [Lake, John \(DEM\)](#); [Olszewski, Scott \(DEM\)](#)
Subject: Public comment Finfish 2023
Date: Monday, February 27, 2023 12:13:37 AM

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Thank you for your time. I am sending this email from the continental shelf. I hope to attend the online meeting tomorrow via zoom.

First topic

4. Menhaden

I only see the division proposal. No industry proposal. ??

I would like the industry proposal to eliminate the MMA program and the biomass triggers to be on record. I support eliminating the MMA and I know Mr. John Williams does to. We as an industry of small mesh volume fisherman would like to revisit this topic and begin the discussion of removing this program.

Also I support the industry proposal of the 120k week limit in the MMA if the MMA is closed due to spotter plane not seeing the biomass.

Next regarding Aggregate program for summer flounder.

I do not support the divisions proposal to reverse that the pilot agg program did not require an exemption to land >300 vessel day. I disagree with the rationale and believe that is not the best available science for this given situation and we should put more value in industry stakeholders opinions then those numbers generated from a 3 yr pilot program.

Our state needs to allow younger fisherman to get involved in this fluke fishery as our quota utilization needs to expand. Allowing an increase in participants due to an increase in quota is what our state needs as we need to show an opportunity for young wild seafood harvesters to gain access into a business without the need for major financial investment.

I support both industry proposals to allow for a liberalization for non fluke certification holders. I support 2 a and 2 b. To allow for a full weekly possession limit for a vessel a day if no fluke cert is possessed and if that is not passed then option b 50% of the weekly possession limit for a vessel day.

I do not support part 14 increase 200 limit to 300.

I support that the limit should be unlimited reasoning being to allow new Rhode Island participants who will be able to utilize the quota in the same manner that the older fleet

Of Fluke cert holders is able to. We need to level the playing field.

I support allowing boats to participate in only one aggregate program. The winter or the summer. I do not support the division proposal to allow for fluke very holders to participate in both winter and summer.

Black Sea bass

I support a. 7x daily limit for agg program. I support a trigger of 90% for both fluke and sea bass.

Thank you again. Please let me know if there are any points I can clarify.

508-264-2176

From: [astrikercharters](#)
To: [Duhamel, Peter \(DEM\)](#)
Subject: Cbass, Scup, Stripped Bass
Date: Wednesday, March 8, 2023 6:37:21 AM

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Good morning Peter here are my proposals
C-Bass #2
Scup #2
Stripped Bass # 3
Thank you Russell Blank

Sent from my Verizon, Samsung Galaxy smartphone



R.I. Party and Charter Boat Association
P.O. Box 171
Wakefield, RI 02880
401-741-5648
www.rifishing.com



President	Capt. Rick Bellavance
Vice President	Capt. Steve Anderson
Treasurer	Capt. Andrew D'Angelo
Secretary	Capt. Paul Johnson
Director	Capt. Nick Butziger

February 18, 2023

Mr. Peter Duhamel
Fishery Management Plan Coordinator
R.I. Marine Fisheries Division
3 Fort Wetherill Road
Jamestown, RI

RE: Public Hearing Comments

Dear Mr. Duhamel,

On behalf of more than 50 members of the R.I Party and Charter Boat Association (RIPCBA) and over one hundred crew members, I offer the following comments relative to items presented during the public hearing held on March 6, 2023.

MENHADEN:

The RIPCBA supports the division proposals, and we opposed Industry proposal #2. We believe the menhaden resource is managed responsibly, with consideration of the value of Menhaden as a key ecosystem component and forage fish for many valuable species.

TAUTOG:

For recreational management of tautog, we support the status quo. The stock status does not warrant any further restrictions to measures, although we would support for-going any liberalizations until we have more catch and effort data to measure fishery trends. A more conservative approach will hopefully protect this important fall fishery that RI's charter/party fleets is extremely dependent on. Future management measures should consider the high economic value of the party/charter sectors tautog "shoulder season" relative to local communities and the small overall catch of tautog by the fleet. We also have concern that our partner in the region has subtle but important differences in their management measures, when we understand that the region should try to maintain the same measures. We recommend continued efforts towards complimentary recreational measures in the RI/MA region.

BLUEFISH:

We support status quo measures for 2023.

STRIPED BASS:

Reluctantly, we support status quo measures for 2023. The current slot limit is not fair and equitable across all recreational modes. The current slot limit forces excessive discarding of striped bass in the charter/party sector as we fish to catch our daily harvest limits. A better solution would be to remove the slot from the party/charter sector. This would allow us to harvest a daily limit faster and move onto other species, reducing discards. Another consideration would be adjusting the slot limit to protect marching cohorts so the largest number of fish can spawn. We disagree that protecting large spawners is better than protecting large years classes as they move into the fishery.

BLACK SEA BASS:

The RIPCBA supports a program that considers the border states measures, with a goal of status quo for party/charter sector. Analysis completed by the division and NOAA fisheries determined that leaving the party/charter sector at status quo measures for 2023 could be achieved with very little loss to the private recreational modes because the majority of mortality of Black Sea Bass is by the larger private modes. The decision to keep the party/charter sector status quo would be an overall benefit to the state's economy and have little impact to the private recreational modes. As we understand the analysis, increasing the size to 16.5 inches for the private modes and leaving the charter/party mode at status quo would extend the private mode 3 fish possession season by 5 days. If the private modes and the charter/party modes both go up to 16.5 inches, the private modes 3 fish season would still increase by 5 days, but the charter/party mode would only receive 1 extra day added to their 2 fish possession season. The RIPCBA membership would prefer to maintain the 16-inch size limit and forgo the additional fishing day at the beginning of the 2 fish possession season. Below, you will find additional rationale to support our recommendation for 2023 Black Sea Bass recreational measures.

1. The states of Massachusetts and Connecticut are proposing similar measures that would keep their charter/party status quo in 2023 and we need our state to do the same to remain competitive. The economic losses to the state would be significant if we do not stay in line with our neighbors, particularly Connecticut.
2. The difference in keeping the charter/party status quo, versus adjusting the charter/party regulations to include the 10% reduction, is minimal and amounts to a couple of days where private modes could get an additional fish. The benefit is not worth the potential losses to the state's economy and charter/party recreational anglers.
3. The percentage of sea bass catch is dominated by private modes and the share of charter/party sea bass catch has been going down for the past 5 years.
4. The charter/party mode catch has been reducing by percentage over the past 5 years, while private modes have been increasing their percentage of catch. The charter/party mode has been taking on a higher percentage of the realized conservation burden for several years.
5. The state needs to recognize that we cannot remain viable under inequitable reductions while the private modes fishing power grows year after year.
6. If charter/party businesses start to go away, charter/party clients could turn to unregulated and unlicensed anglers to get them on the water, this is a safety concern as those operations would be unregulated and illegal.
7. The state needs to support its charter/party businesses because they are all licensed, regulated and safe. Our businesses are a requirement for those recreational fishermen who chose not to invest time

learning to fish or spend money on their own gear and boats. If charter/party businesses cannot remain profitable, all those recreational fishermen will be left high and dry.

8. Charter/party businesses are for profit companies and our role in the recreational fishery should enter the decision-making process. This is a philosophical management decision that we believe needs to be considered and supported. Separate measures proved successful in 2022 and show that separate measures by mode continue to be the best path forward for managing a diverse recreational fishery.

SCUP:

We support Proposal #1 (regional proposal). This is another example where sector separation is the best way to manage Rhode Island's recreational community. This proposal recognizes that the shore based sector would benefit from a smaller sized fish while the private boat mode has better access to larger fish and can accommodate a larger size to help out the shore sector. The charter/party sector will continue to receive a bonus season, but it will be cut slightly to 40 fish per person for federally permitted vessels fishing in both state and federal waters. Coupled with a ½ inch size increase the reductions would allow the shore sector to fish at all sights along the shore at 9 ½ inch fish. This proposal is a good alternative to offer the best regulations for the different sectors that fish for scup, while achieving a required 10% reduction.

Thank you for the opportunity to comment on these management alternatives for these key species that are all important to our success as small business owners in Rhode Island. We commend RI Marine Fisheries staff for the work done to analyze all these alternatives and for being accessible to RI's recreational fishing community. The RIPCBA recognizes and appreciates the strong support consistently provided by staff to help us develop alternatives that work the best for as many people as possible.

Respectfully Submitted,

Capt. Rick Bellavance

Capt. Rick Bellavance, President
RI Party and Charter Boat Association

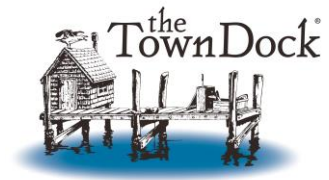
From: [Scott Lundberg](#)
To: [Duhamel, Peter \(DEM\)](#)
Subject: Public hearing comments
Date: Wednesday, March 22, 2023 6:11:03 PM

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Peter, please accept my comments in reference to the public hearing. My name is Scott Lundberg. I am the owner and the captain of Reel-to-Reel Sportfishing Llc. I have been a full-time charter boat captain since 1993. I support the status quo for tautog. Future management should consider the high economic value of this fishery for the party -charter boat fleet. i also support the status quo for bluefish. Concerning striped bass, I reluctantly support the status quo. I think the slot limit is a failure. I am honestly throwing back 20- 25 striped bass a trip. Most of them are 40 -50 lbs. i think the charter fleet should be exempt from the slot limit. My customers don't appreciate catching a trophy bass then, throwing it back knowing a commercial fisherman is allowed to catch and sell it. It's pretty hard to sell conservation in that conversation. I would support the status quo for black sea bass. Over the years the charter party boat fleet catch has gone down and the private sector catch has gone up. With the excessive price of diesel fuel, this has been the bread-and-butter fishery for me and others. We also need to stay competitive with Mass and Connecticut. Concerning scup, I support the regional proposal. Having been in this business for 30 years, the party and charter boat fleet keeps giving up fish but we never get anything back. The future of the party charter boat fleet looks dim. It's very hard to run a for profit business when there is no product. I compare it to owning a shoe store. The shoe store only has Men's size 6 and size 14 in Burgandy Thank you for your time, Scott Lundberg



45 STATE STREET | PO BOX 608
NARRAGANSETT, RI 02882

March 14, 2023

Peter Duhamel
DEM Division of Marine Fisheries
3 Fort Wetherill Road
Jamestown, RI 02835

Dear Mr. Duhamel,

I am writing to comment on the proposed actions presented by the Division of Marine Fisheries on March 6th, 2023.

The Town Dock supports the following:

1. The Division's proposal to increase the daily limit of summer flounder from 200 lbs/vessel/day to 300 lbs/vessel/day for those without a summer flounder exemption certificate.
2. The Division's proposal for the Aggregate Program for Summer Flounder and Black Sea Bass.

We do not support the industry's proposal due to concerns over items #1, #3 and #5. We support the ability of vessels to participate in both the winter and summer aggregate programs. We cannot support the increase of the black sea bass possession limit due to the concern of running out of quota during the season. We have always stressed the importance of being able to keep fisheries open throughout the different management seasons.

We do not support not being able to have small mesh gear aboard while participating in the aggregate program. Federal regulations allow the gear to be aboard if stowed properly. The regulations should mirror that.

Sincerely,

Katie Almeida
Sr. Representative, Government Relations, and Sustainability
The Town Dock



TOWNDOCK.COM
INFO@TOWNDOCK.COM
PH 401-789-2200 | FAX 401-782-4421

In regards to the Divisional Proposal section e. Summer Flounder Exemption Certificate:

300 lbs/day maximum for vessels with no exemption is not enough. That doesn't pay the bills. Boats will have to go fishing for squid, scup, butterfish, whiting instead. Meaning they will be towing their fine twine nets. Meaning their will be bycatch. Its as simple as that. We are talking about hundreds of thousands of pounds of juvenile biomass. That is no exaggeration.

The industry proposal the way to go. It would allow for the exemption certificate to retain value during summer and fall while ensuring that there is participation and most importantly, BYCATCH REDUCTION.

Whoever makes the final decision here is in the position to do some good and make an immediate positive impact on the local ecosystem. I implore you to make your decision based on what is good for the environment and not based on what is good for the exemption certificate holders.

Trevor Knight

96 South bay dr

Narragansett RI 02882

1. Adopt new rule “*Part 23 - Aggregate Program for Summer Flounder and Black Sea Bass*” in conjunction with allowing the pilot program rules “*Part 12 – Research Pilot Aggregate Program for Summer flounder and Black sea bass*” to remain expired (i.e., do not extend term of pilot program into 2023).

Comment: Support for continuing program; results in significant reduction in discards and less habitat impacts, improves efficiency through reduced effort, fuel costs, fewer trips, less carbon footprint. Increased safety at sea provided by better flexibility allowing a choice of which days to fish (i.e., stay in port during bad weather). As a multi-sector operation allows for focused activity (i.e., fish pots, lobster pots, whelk pots, dragging) on different days resulting in fewer discards and improved efficiency. Reduces “derby” style when fishing daily limits which contributes to excessive discards. I do have some concerns about how the new starting daily possession limit of 300 lbs and resulting 2100 weekly limit on May 1 will effect participation from larger vessels, with that in mind I support another pilot year to study the effect of the higher limits on participation levels.

2. Summer flounder possession limit: Support 7X daily limit
3. Black sea bass possession limit: Support 5X daily limit
4. Closure Trigger: Support closure trigger of 90%
5. Participation in both the Winter I season and the Summer/Fall season for summer flounder:
Opposed to participation in both programs
6. Summer Flounder Exemption Certificate required in summer/fall program and Exemption Certificate:

Comment: Support to require the Exemption Certificate for the summer/fall program, however the current possession limit of 200 lbs/day for vessels that do not hold an Exemption Certificate is not economically feasible. Support to increase the daily possession limit form vessels that do not hold an Exemption Certificate to 400 – 500 lbs/vsl/day.

Addition Comment:

I believe the Division of Marine Fisheries should start the process of how to issue new Summer Flounder Exemption certificates to license holders given that the first two phases of the new program rules are complete. My understanding is that approximately 126 latent certificates were not renewed during the first two phases and 88 are currently in force. It should be determined how many of the lantents should be made available.

**COMMENTS ON PROPOSED AMENDMENTS TO DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT “DEFINITIONS AND GENERAL PROVISIONS”
250-RICR-90-00-1
February 27, 2023**

The ACLU of Rhode Island appreciates the opportunity to provide testimony on these draft regulations which make various amendments to the definitions used by the Department in its rules. We wish to briefly comment on one of the definitions that it seeks to amend.

Specifically, the proposal would amend the definition of “medical hardship,” which appears in Section 1.13, “Definition of Terms,” as follows:

“Medical hardship” means a significant medical condition that ~~prevents a license holder from meeting licensing application requirements.~~ renders an active licensed person unable to fish for a period in excess of fourteen (14) days, either as a result of the physical loss of function or impairment of a body part or parts, or debilitating pain. Demonstration of the medical hardship shall be in the form of a diagnosis and prognosis signed by a medical doctor (M.D. or O.D.).

As far as we have been able to ascertain from a search of the agency’s rules, the term “medical hardship” appears in only one other regulation of the Department, dealing with “Commercial Marine Fishing Licenses, Landing Permits, and Party and Charter Licenses.” [250-RICR-90-00-2] More specifically, it appears in a section dealing with qualifications for a temporary operator’s permit.

Our concern about this definitional change is twofold. First, it potentially significantly narrows the circumstances that constitute a “medical hardship,” and more concerningly, it would eliminate any medical condition that is not physical in nature. It would thus appear to exclude a person from qualifying for a temporary operator’s permit if their medical condition involves mental, rather than physical, illness. We believe such a limitation is inappropriate and in conflict with state and federal anti-discrimination laws.

Second, it is unclear to us why the Department seeks to require specific information about the illness that is the cause of the medical hardship. This strikes us as unduly invasive of the applicant’s privacy, and seems to put the Department in the position of wanting to second-guess a medical professional as to the impact of a medical condition on a person’s ability to engage in commercial fishery.

We therefore request that the current definition either be retained or amended along the following lines:

“Medical hardship” means a significant medical condition that ~~prevents a license holder from meeting licensing application requirements.~~ renders an active licensed person unable to fish for a period in excess of fourteen (14) days. Demonstration of the medical hardship shall be in the form of an attestation signed by a medical doctor (M.D. or O.D.).

Thank you in advance for your consideration of these comments. If the suggestion we have made is not adopted, we request, pursuant to R.I.G.L. §42-35-2.6, a statement of the reasons for not accepting these arguments.

Submitted by: Steven Brown, Executive Director

2023 -- H 5863

LC001800

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO FISH AND WILDLIFE -- GENERAL PROVISIONS

Introduced By: Representatives Spears, Casimiro, Kazarian, Boylan, McGaw, Fenton-Fung, Speakman, Craven, McEntee, and Cortvriend

Date Introduced: March 01, 2023

Referred To: House Environment and Natural Resources

(Dept. of Environmental Management)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 20-1-5.1 and 20-1-12 of the General Laws in Chapter 20-1 entitled
2 "General Provisions" are hereby amended to read as follows:

3 **20-1-5.1. Advice of the marine fisheries council.**

4 The director, in exercising authority under this title for the planning, management, and
5 regulation of marine fisheries, shall request and consider in the record as applicable the advice of
6 the marine fisheries council, ~~and in the adoption of management plans and regulations affecting~~
7 ~~licensing for marine fisheries, the director~~ and shall provide a written response to ~~the~~ such advice
8 of the marine fisheries council.

9 **20-1-12. Fixing of seasons and bag limits.**

10 (a) The director is authorized to adopt regulations fixing seasons, bag limits, size limits,
11 possession limits, and methods of taking on any species of fish, game, bird, or other wild animal
12 occurring within the state, ~~other than marine species regulated by the marine fisheries council.~~

13 (1) These regulations may prohibit the taking, holding, or possession of any species;
14 prohibit the taking, molestation, or disturbance in any way of nesting, breeding, or feeding sites of
15 any species; and/or prohibit, control, or regulate any commercial use, importation into the state, or
16 exportation from the state of any species.

17 (2) These regulations may be of statewide applicability or may be applicable in any
18 specified locality, or localities, within the state when the director shall find, after investigation, that
19 the regulations are appropriate.

1 (b) Any person who violates any provision of this section, or any rule or regulation made
2 under the provisions of this section, shall be guilty of a civil violation and subject to a fine of one
3 hundred dollars (\$100) for each offense.

4 (c) Notwithstanding any inconsistent provision of law, the traffic tribunal shall have
5 jurisdiction to hear and determine all violations specified in this section.

6 (d) The regulations shall be adopted only after the holding of a public hearing subject to
7 the provisions of the Administrative Procedures Act, chapter 35 of title 42.

8 SECTION 2. Section 20-2.1-9 of the General Laws in Chapter 20-2.1 entitled "Commercial
9 Fishing Licenses" is hereby amended to read as follows:

10 **20-2.1-9. Powers and duties of the director.**

11 It shall be the duty of the director to adopt, implement effective January 1, 2003, and
12 maintain a commercial fisheries licensing system that shall incorporate and be consistent with the
13 purposes of this chapter; in performance of this duty, the director shall follow the guidelines and
14 procedures set forth below:

15 (1) The rule-making powers of the director to accomplish the purposes of this chapter shall
16 include the following with regard to commercial fishing licenses and commercial fishing by license
17 holders:

18 (i) Types of licenses and/or license endorsement consistent with the provisions of this
19 chapter and applicable sections of this title, and limitations on levels of effort and/or on catch by
20 type of license and/or license endorsement;

21 (ii) Design, use, and identification of gear;

22 (iii) Declarations for data collection purposes of vessels used in commercial fishing, which
23 declaration requirements shall in no way, except as otherwise provided for in law, restrict the use
24 of any vessel less than twenty-five feet (25') in length overall by appropriate holders of commercial
25 fishing licenses;

26 (iv) Areas in Rhode Island waters where commercial fishing of different types may take
27 place, and where it may be prohibited or limited, and the times and/or seasons when commercial
28 fishing by type or species may be allowed, restricted, or prohibited;

29 (v) Limitations and/or restrictions on effort, gear, catch, or number of license holders and
30 endorsements; and

31 (vi) Emergency rules, as provided for in chapter 35 of title 42, to protect an unexpectedly
32 imperiled fishery resource to provide access to a fisheries resource that is unexpectedly more
33 abundant and to protect the public health and safety from an unexpected hazard or risk. The marine
34 fisheries council shall be notified of all emergency rules on or before their effective date, and no

1 emergency rule shall become a final rule unless it is promulgated as provided for in subdivision (3)
2 of this section.

3 (2) When implementing the system of licensure set forth in §§ 20-2.1-4, 20-2.1-5, 20-2.1-
4 6, and 20-2.1-7, and other provisions of this title pertaining to commercial fishing licenses, permits,
5 and registrations, the director shall consider the effect of the measure on the access of Rhode
6 Islanders to commercial fishing, and when establishing limitations on effort and/or catch:

7 (i) The effectiveness of the limitation:

8 (A) In achieving duly established conservation or fisheries regeneration goals or
9 requirements;

10 (B) In maintaining the viability of fisheries resources overall, including particularly, the
11 reduction of by-catch, discards, and fish mortality, and in improving efficiency in the utilization of
12 fisheries resources;

13 (C) In complementing federal and regional management programs and the reciprocal
14 arrangements with other states;

15 (ii) The impact of the limitation on persons engaged in commercial fishing on:

16 (A) Present participation in the fishery, including ranges and average levels of participation
17 by different types or classes of participants;

18 (B) Historical fishing practices in, and dependence on, the fishery;

19 (C) The economics of the fishery;

20 (D) The potential effects on the safety of human life at sea;

21 (E) The cultural and social framework relevant to the fishery and any affected fishing
22 communities; and

23 (iii) Any other relevant considerations that the director finds in the rule-making process;

24 (iv) The following standards for fishery conservation and management, which standards
25 shall be understood and applied so far as practicable and reasonable in a manner consistent with
26 federal fisheries law, regulation, and guidelines:

27 (A) Conservation and management measures shall prevent overfishing, while achieving,
28 on a continuing basis, the optimum yield from each fishery;

29 (B) Conservation and management measures shall be based upon the best scientific
30 information available and analysis of impacts shall consider ecological, economic, and social
31 consequences of the fishery as a whole;

32 (C) Conservation and management measures shall, where practicable, consider efficiency
33 in the utilization of fisheries resources, except that no such measure shall have economic allocation
34 as its sole purpose;

1 (D) Conservation and management measures shall take into account and allow for
2 variations among, and contingencies in, fisheries, fishery resources, and catches;

3 (E) Conservation and management measures shall, where practicable, minimize costs and
4 avoid unnecessary duplication;

5 (F) Conservation and management measures shall, consistent with conservation
6 requirements of this chapter (including the prevention and overfishing and rebuilding of overfished
7 stocks), take into account the importance of fishery resources to fishing communities in order to (I)
8 Provide for the sustained participation of those communities and (II) To the extent practicable,
9 minimize adverse economic impacts on those communities;

10 (G) Conservation and management measures shall, to the extent practicable: (I) Minimize
11 by-catch and (II) To the extent by-catch cannot be avoided, minimize the mortality of the by-catch;
12 and

13 (H) Conservation and management measures shall, to the extent practicable, promote the
14 safety of human life at sea.

15 ~~(3)(i) The rule making process set forth in this subdivision shall conform with the~~
16 ~~requirements of the Administrative Procedures Act, chapter 35 of title 42, and shall include a~~
17 ~~regulatory agenda for marine fisheries management, with the advice of the marine fisheries council,~~
18 ~~in accordance with the requirements of § 42-35-5.1;~~

19 ~~(ii) The director shall submit a proposed rule to the marine fisheries council at least thirty~~
20 ~~(30) days prior to the proposed date of the public hearing on the rule;~~

21 ~~(iii) The public hearing shall be on either the rule as proposed to the marine fisheries~~
22 ~~council by the director or a proposed revision to that rule adopted by the marine fisheries council;~~

23 ~~(iv) The proposed rule, as submitted by the director to the marine fisheries council, and the~~
24 ~~council report and recommendation regarding the rule shall both be entered into the record of the~~
25 ~~hearing conducted in accordance with the requirements of chapter 35 of title 42;~~

26 ~~(v) Notwithstanding the provisions of paragraphs (i) — (iv) of this subdivision, the director~~
27 ~~may promulgate a rule with less than thirty (30) days' notice to the marine fisheries council if and~~
28 ~~to the extent necessary to comply with federal requirements or to respond to a sudden change in~~
29 ~~conditions where failure to take immediate action would likely cause harm to fishery resources or~~
30 ~~participants; and~~

31 ~~(vi) The decision of the director shall state the basis for adopting the rule, including a~~
32 ~~concise statement giving the principal reasons for and against its adoption and the response to~~
33 ~~positions entered into the record; and in the case of a rule promulgated in accordance with paragraph~~
34 ~~(v) of this subdivision, the reasons for having to take immediate action.~~

1 (4) Matters to be considered in establishing license programs under this chapter. The
2 director shall be consistent with the requirements of § 20-2.1-2(6) in establishing and implementing
3 a licensing system in accordance with the provisions of this chapter that shall be designed to
4 accomplish marine fisheries management objectives. The licensing system may limit access to
5 fisheries, particularly commercial fisheries for which there is adequate or greater than adequate
6 harvesting capacity currently in the fishery and for which either a total allowable catch has been
7 set or a total allowable level of fishing effort has been established for the purpose of preventing
8 over fishing of the resource or the dissipation of the economic yield from the fishery. This authority
9 shall include the authority of the director to:

10 (i) Differentiate between the level of access to fisheries provided to license holders or
11 potential license holders on the basis of past performance, dependence on the fishery, or other
12 criteria;

13 (ii) Establish prospective control dates that provide notice to the public that access to, and
14 levels of participation in, a fishery may be restricted and that entrance into, or increases in levels
15 of participation in a fishery after the control date may not be treated in the same way as participation
16 in the fishery prior to the control date; retroactive control dates are prohibited and shall not be used
17 or implemented, unless expressly required by federal law, regulation, or court decision; and

18 (iii) Establish levels of catch by type of license and/or endorsement that shall provide for
19 basic and full harvest and gear levels; quotas may be allocated proportionally among classes of
20 license holders as needed to maintain the viability of different forms of commercial fishing.

21 ~~(5) The director shall, annually, with the advice of the marine fisheries council, develop~~
22 ~~and update conservation and management plans for the fishery resources of the state, which~~
23 ~~conservation and management plans shall be developed and updated prior to, and at the same time~~
24 ~~as, adoption of any license restrictions on effort or catch. Such plans shall address stock status,~~
25 ~~performance of fisheries and quotas, and management and licensing programs, and offer any~~
26 ~~recommendations for new or alternative approaches to management and/or licensing identified by~~
27 ~~the department or the marine fisheries council. In the development of the fishery conservation and~~
28 ~~management plans, priority shall be given to those resources with the highest value to the state,~~
29 ~~either for commercial or recreational purposes.~~

30 (6) The director, with the advice of the marine fisheries council shall report annually to the
31 governor, general assembly and to the citizens concerning the conservation and management of the
32 fishery resources of the state, ~~noting particularly the status of any fishery resources that are~~
33 ~~considered to be over-fished or were considered to be over-fished in the preceding year~~ addressing
34 stock status, performance of fisheries and quotas, management and licensing programs, and other

1 [matters of importance.](#)

2 SECTION 3. Sections 20-3-1 and 20-3-2 of the General Laws in Chapter 20-3 entitled
3 "Marine Fisheries Council" are hereby amended to read as follows:

4 **20-3-1. Council created — Membership — Compensation.**

5 There is hereby created a marine fisheries council. The council shall be composed of the
6 director of the department of environmental management, or the director's designee, who shall
7 serve as chairperson, and eight (8) private citizen members. The private citizen members shall be
8 chosen from among those with skill, knowledge, and experience in the commercial fishing industry,
9 the ~~sport~~ [recreational and for-hire](#) fishing industry, and in the conservation and management of
10 fisheries resources and shall be appointed by the governor with the advice and consent of the senate.
11 Three (3) of the private citizen members shall be representatives of the commercial fishing industry;
12 three (3) shall be representatives of the ~~sport~~ [recreational and for-hire](#) fishing industry; and the
13 remaining two (2) shall have skill, knowledge, and experience in the conservation and management
14 of fisheries resources and/or marine biology. The chairperson of the coastal resources management
15 council and the chiefs of the divisions of enforcement and marine fisheries in the department of
16 environmental management shall serve in an advisory capacity to the council. Members of the
17 council shall serve for a term of four (4) years, ~~and may not succeed themselves more than once~~
18 ~~after January 1, 2002~~ [not to exceed two \(2\) four \(4\) year terms, notwithstanding a partial mid-term](#)
19 ~~appointment. Initial appointments to the council shall be appointed as follows: three (3) members~~
20 ~~for a term of two (2) years; three (3) members for a term of three (3) years; and two (2) members~~
21 ~~for a term of four (4) years.~~ All members of the council shall serve without compensation and shall
22 be reimbursed for their necessary expenses incurred in travel and in the performance of their duties.
23 [No person may serve on the council if assessed a criminal or administrative penalty in the past three](#)
24 [\(3\) years for a violation of a marine fisheries law or regulation, including any suspension or](#)
25 [revocation of a commercial or recreational fishing license or permit or dealers license, or any fine,](#)
26 [donations, probation, imprisonment, or other filing, imposed administratively or by a court of law.](#)

27 **20-3-2. Powers and duties.**

28 (a) The marine fisheries council shall serve in an advisory capacity only to the state and
29 agencies of the state regarding marine fisheries issues and [shall have the power and duty to advise](#)
30 the director of the department of environmental management in the exercise of his or her authority
31 under this title for the planning, management, and regulation of marine fisheries on matters [\(except](#)
32 [emergency rules adopted pursuant to § 42-35-2.10\)](#), including, but not limited to, the following
33 activities:

34 (1) The manner of taking ~~fish, lobsters, and shellfish~~ [marine species from the waters of the](#)

1 [state](#);

2 (2) The legal size limits of ~~fish, lobsters, and shellfish~~ [marine species](#) to be taken or
3 possessed;

4 (3) The seasons and hours during which ~~fish, lobsters, and shellfish~~ [marine species](#) may be
5 taken or possessed;

6 (4) The numbers or quantities of ~~fish, lobsters, and shellfish~~ [marine species](#) which may be
7 taken or possessed; ~~and~~

8 (5) The opening and closing of areas within the coastal waters to the taking of any and all
9 types of ~~fish, lobsters, and shellfish~~ [marine species](#); ~~and-~~

10 [\(6\) Marine fisheries licensing, including commercial, recreational and for-hire, necessary](#)
11 [to implement the provisions of chapters 2, 2.1, and 2.2 of title 20.](#)

12 [\(b\) The marine fisheries council shall advise the director in the development of the](#)
13 [rulemaking agenda for marine fisheries pursuant to § 42-35-5.1, and shall have the power to initiate](#)
14 [rulemaking by petition as provided for by § 42-35-6.](#)

15 [\(c\) The marine fisheries council shall advise the department regarding development of](#)
16 [annual plans for the allocation and use of the funds made available to the department from](#)
17 [commercial fishing license fees, tags, permits, and vessel fees as provided in § 20-2-28.2.](#)

18 [\(d\) The marine fisheries council shall review applications to CRMC for permits to conduct](#)
19 [aquaculture, and provide recommendations to CRMC on all such applications, in accordance with](#)
20 [§ 20-10-5.](#)

21 ~~(b)~~(e) The council shall report annually by ~~March~~ [April](#) 1 of each year to the governor, the
22 speaker of the house, the president of the senate, the chairperson of the house committee on
23 environment and natural resources, the chairperson of the senate committee on environment and
24 agriculture, and to the house oversight committee and the senate committee on government
25 oversight, for the preceding calendar year with regard to:

26 (1) The advice it has given to state agencies, including specifically the department of
27 environmental management, on marine fisheries issues;

28 (2) The response it received to the advice it gave;

29 (3) Any findings or position it may have with regard to the status and/or condition of marine
30 fisheries; and

31 (4) Any recommendations it may have for maintaining, improving, or changing laws,
32 regulations, or management programs for marine fisheries.

33 SECTION 4. Sections 20-4-2, 20-4-3, 20-4-9 and 20-4-12 of the General Laws in Chapter
34 20-4 entitled "Commercial Fisheries" are hereby amended to read as follows:

1 **20-4-2. Otter trawls, pair trawls, and beam trawls — Areas prohibited.**

2 Unless otherwise specified in regulations ~~adopted by the marine fisheries council~~ and
3 except for those areas described in § 20-4-3, no person shall operate a beam, pair, or otter trawl or
4 other mechanical trawling device in the Sakonnet River; Narragansett Bay; in Point Judith Pond,
5 so-called, in the towns of Narragansett and South Kingstown; or the Harbor of Refuge, so-called,
6 in the town of Narragansett; or in Potter Pond, so-called, in the town of South Kingstown; or in
7 Great Salt Pond, so-called, in the town of New Shoreham.

8 **20-4-3. Otter trawls, pair trawls, and beam trawls — Areas allowed.**

9 Any duly licensed resident commercial fisherman and a nonresident commercial fisherman
10 licensed pursuant to § 20-2-28 [repealed], may operate otter, beam, or pair trawls or other
11 mechanical trawling device subject to rules and regulations of the marine fisheries council, in the
12 area of Narragansett Bay, and Sakonnet River south of a line, extending from Spink Neck in the
13 town of North Kingstown in a northeasterly direction to Pine Hill Point on Prudence Island and
14 from a point at Homestead Dock on the easterly shore of Prudence Island, thence northeasterly to
15 Hog Island shoal light, thence to the north abutment of Mt. Hope Bridge in the town of Bristol, and
16 south of a line extending from McCurry Point on the east side of the town of Portsmouth
17 northeasterly in a line to southerly point of Jack's Island, so-called, in the town of Tiverton. ~~The~~
18 ~~area subject to this section may be changed by rules and regulations adopted by the marine fisheries~~
19 ~~council.~~

20 **20-4-9. Striped bass — Minimum size.**

21 Unless otherwise specified in regulations ~~adopted by the marine fisheries council~~, no
22 person shall take in any manner whatsoever from the territorial waters of this state, including the
23 waters of the Atlantic Ocean, or have in his or her possession, any striped bass measuring less than
24 sixteen inches (16") in length. Striped bass shall be measured from the tip of the snout to the fork
25 of the tail.

26 **20-4-12. Striped bass — Use of nets and seines prohibited — Traps.**

27 Unless otherwise specified by regulation ~~of the marine fisheries council~~, no person, firm,
28 or corporation shall take, or attempt to take, with or by the use of a net, seine, or any other
29 contrivance of any kind or description except by hook and line, spear, or by fish traps authorized
30 under authority of chapter 5 of this title, as amended, any striped bass from the public waters of
31 this state northerly of a line commencing at upper pier in the town of Narragansett and extending
32 in a straight line in a northeasterly direction to Beavertail Lighthouse and thence continuing in a
33 northeasterly direction in a straight line to Castle Hill Lighthouse in the city of Newport; nor shall
34 any person, firm, or corporation take, or attempt to take, with or by the use of a seine, any striped

1 bass from the beach in the town of Charlestown for a distance of three (3) miles to the east of
2 Charlestown Inlet; provided, however, that it shall not be a violation of this section for any person
3 to take striped bass by means of the seine, net, or other contrivance while fishing for other fish for
4 the catching of which the use of the seine, net, or other contrivance is permitted if the striped bass
5 is immediately returned to the waters from which taken; provided further, however, at all fish traps,
6 between September first and October fourteenth in any year, there is no obstruction, except the trap
7 anchor warp of the leader within one hundred fifty feet (150') from the mean high water mark on
8 shore that will stop the free passage of striped bass. For the purpose of this chapter, a "trap anchor
9 warp" is any cable, wire, line, or like material or device, and shall not exceed three inches (3") in
10 diameter.

11 SECTION 5. Sections 20-6-1, 20-6-2, 20-6-3, 20-6-7, 20-6-8, 20-6-10, 20-6-12, 20-6-16
12 and 20-6-19 of the General Laws in Chapter 20-6 entitled "Shellfish" are hereby amended to read
13 as follows:

14 **20-6-1. Taking of shellfish without a license.**

15 Unless otherwise specified in regulations ~~adopted by the marine fisheries council~~, any
16 resident of this state may, without a license, take in any one day during the open season, if
17 applicable, not more than one half (½) bushel each of quahaugs, soft-shell clams, sea clams, oysters,
18 and mussels, and not more than one bushel of scallops; provided, that those quahaugs, soft-shell
19 clams, sea clams, oysters, mussels, or scallops shall not be sold or offered for sale.

20 **20-6-2. Oysters — Open season.**

21 Unless otherwise specified in regulations ~~adopted by the marine fisheries council~~, the open
22 season for taking oysters from the free and common oyster fisheries in any of the waters of this
23 state shall be between the fifteenth day of September and the fifteenth day of May. Any person
24 taking any oysters or exposing any oysters for sale taken from the free and common fisheries in
25 state waters in violation of the provisions of this section shall, upon conviction, be fined no less
26 than fifty dollars (\$50.00) nor more than five hundred dollars (\$500) and costs for each offense.

27 **20-6-3. Scallops — Open season.**

28 Unless otherwise specified in regulations ~~adopted by the director, in consultations with the~~
29 ~~marine fisheries council~~, the open season for taking scallops from the free and common scallop
30 fisheries in any of the waters of the state shall be between sunrise of the first day of October and
31 sunset on the last day of December of every year. Any person taking scallops in violation of this
32 section shall, upon conviction, be fined not less than fifty dollars (\$50.00) nor more than five
33 hundred dollars (\$500) or imprisoned exceeding thirty (30) days for each offense.

34 **20-6-7. Use of dredges.**

1 Except as hereinafter provided and unless otherwise specified by regulation ~~of the marine~~
2 ~~fisheries council~~, no person shall take any oysters, bay quahaugs, or soft-shell clams from the
3 waters of this state by dredges, rakes, or other apparatus operated by mechanical power or hauled
4 by power boats. No licensed person shall cast, haul, or have overboard any dredges while fishing
5 for oysters, bay quahaugs, or soft-shell clams from the free and common fisheries of this state, nor
6 shall any licensed boat be used for fishing oysters, soft-shell clams, or bay quahaugs with dredges,
7 except as provided in this section; provided, that any person having a license issued under this title
8 for the taking of scallops may use a dredge or dredges, not exceeding six (6) in number nor
9 exceeding twenty-eight inches (28") each in width, for that purpose; provided further, that the
10 licensee shall immediately return all oysters, soft-shell clams, or bay quahaugs caught by the
11 licensee to the waters from which they were taken. Any licensed boat may be used in dredging for
12 mussels by the licensee of that boat, the licensee having first obtained a permit from the director of
13 environmental management allowing the licensee so to do; provided, the licensee, while dredging
14 for mussels under the permit granted the licensee by the director, shall immediately return all
15 oysters, scallops, or bay quahaugs caught by him or her to the waters from which they were taken.
16 The fact of any licensed person being found with oysters, scallops, or bay quahaugs in his or her
17 possession while dredging for mussels shall be prima facie evidence that person was fishing in
18 violation of the provisions of this chapter and shall be subject to the penalties and fines imposed by
19 this chapter. Any resident dredging for surf clams or skimmers shall not be in violation of this
20 section if that dredging is done southerly of the coastline of Little Compton, southerly of a line
21 extending from Church point, in the town of Little Compton, to Flint point on Aquidneck Island,
22 southerly of the coastline of Aquidneck Island, southerly of a line extending from Castle Hill point
23 on Aquidneck Island, to southwest point of Conanicut Island to Bonnet point, Narragansett, easterly
24 of the coastline of the town of Narragansett, southerly of the coastline of the towns of Narragansett,
25 South Kingstown, and Charlestown, and westerly to the Connecticut line. For the purpose of this
26 section, "coastline" refers to the land facing the open sea.

27 **20-6-8. Opening areas for quahaug dredging.**

28 Pursuant to good conservation practices, the ~~marine fisheries council~~ director shall be
29 authorized to open areas of the public waters of the state for taking quahaugs under license by a
30 registered boat, by dredges, rakes, or other apparatus operated by mechanical power or hauled by
31 power boats, and shall be authorized to close those areas at any time there is a danger of depletion
32 of quahaugs or when flagrant violations of this chapter occur.

33 **20-6-10. Allowance of shellfish taking under license.**

34 (a) Unless otherwise specified by regulation ~~of the marine fisheries council~~, a holder of a

1 commercial shellfishing license may take and/or possess, in any one day, up to twelve (12) bushels
2 of quahaugs, twelve (12) bushels of soft-shell clams, and three (3) bushels of oysters.

3 (b) A holder of a nonresident shellfishing license may take in any one day not more than
4 one peck each of oysters, quahaugs, soft-shell clams, surf clams, or mussels. Any person taking
5 more than these allowances in any one day shall be fined upon conviction one hundred dollars
6 (\$100) for each bushel or part of a bushel exceeding the prescribed quantity or be imprisoned not
7 exceeding thirty (30) days, or both.

8 **20-6-12. Maximum take for dredged quahaugs.**

9 Any person licensed to take quahaugs by dredge, rake, or other apparatus operated by
10 power or hauled by a power boat may take and possess, between sunrise and sunset of any one day,
11 thirty (30) bushels of quahaugs, unless a different amount is specified by regulation ~~of the marine~~
12 ~~fisheries council~~. Any person taking more than the prescribed quantity shall be fined, upon
13 conviction, not more than one hundred dollars (\$100) for each bushel exceeding the prescribed
14 quantity or be imprisoned not exceeding thirty (30) days, or both.

15 **20-6-16. Scallops — Commercial allowance.**

16 Unless otherwise specified by regulation ~~of the marine fisheries council~~, a person holding
17 a license for the commercial taking of scallops shall take in any one day not more than ten (10)
18 bushels of scallops, including shells, from the waters of the state.

19 **20-6-19. Number, size, and handling of dredges.**

20 Unless otherwise specified by regulation ~~of the marine fisheries council~~, no person engaged
21 in the taking of scallops shall use more than six (6) single dredges, the blades of which shall not be
22 more than twenty-eight inches (28") in width, and the bag used shall not be more than thirty-six
23 inches (36") in length. Every single dredge shall be towed and hauled aboard the registered boat
24 individually.

25 SECTION 6. Sections 20-7-10, 20-7-11, 20-7-11.1, 20-7-15 and 20-7-16 of the General
26 Laws in Chapter 20-7 entitled "Lobsters and Other Crustaceans" are hereby amended to read as
27 follows:

28 **20-7-10. Minimum size of lobsters taken — Egg-bearing females.**

29 (a)(1) Unless otherwise specified by regulations ~~adopted by the marine fisheries council~~,
30 no person shall catch or take from any of the waters within the jurisdiction of this state, or have in
31 his or her possession within this state, any lobster, or parts of lobsters, cooked or uncooked, that is
32 less than three and three sixteenths inches (33/16") measured from the rear of the eye socket along
33 a line parallel to the center line of the body shell to the rear end of the carapace.

34 (2) The minimum size of three and three sixteenths inches (33/16") shall be increased as

1 follows:

2 (i) On January 1, 1988, 1/32" from 33/16" to 37/32";

3 (ii) On January 1, 1989, 1/32" from 37/32" to 31/4";

4 (iii) On January 1, 1991, 1/32" from 31/4" to 39/32";

5 (iv) On January 1, 1992, 1/32" from 39/32" to 35/16".

6 (b) No person shall have in his or her possession within this state any female lobster bearing
7 eggs or from which the eggs have been brushed or removed.

8 (c) In addition to any penalties specified in other sections of this chapter, every person
9 violating any of the provisions of this section shall be fined not less than fifty dollars (\$50.00) nor
10 more than five hundred dollars (\$500) for each lobster in violation of this regulation or be
11 imprisoned not exceeding thirty (30) days, or both. Any person licensed under this chapter catching
12 and taking any lobster as described in subsection (a) or (b), and immediately returning the lobster
13 alive to the water from which it was taken, shall not be subject to these fines or penalties. The
14 possession of any lobster as described in subsection (a) or (b), cooked or uncooked, shall be prima
15 facie evidence that the lobster was caught and taken in violation of this section. Any person
16 convicted a second time of a violation of this section shall be fined five hundred dollars (\$500) and
17 be deprived of the privilege of fishing for lobsters within the state for three (3) years, after
18 conviction, under a penalty of sixty (60) days' imprisonment or a fine of five hundred dollars
19 (\$500), or both, for each offense.

20 **20-7-11. Buoying of pots — Escape vents.**

21 (a) Each and every lobster pot, set, kept, or maintained, or caused to be set, kept, or
22 maintained, in any of the waters in the jurisdiction of this state by any person licensed under this
23 chapter, shall contain an escape vent in accordance with the following specifications:

24 (1) A rectangular escape vent with an unobstructed opening not less than 13/4 inches
25 (44.5mm) by 6 inches (152.5mm); or

26 (2) Two (2) circular escape vents with an unobstructed opening not less than 21/4 inches
27 (57.2mm) in diameter; or

28 (3) An unobstructed gap caused by raising both ends of a bottom lath in the parlor section
29 11/4 inches (44.5mm) from the bottom; or

30 (4) An unobstructed gap caused by separating both ends of two (2) vertical laths on the end
31 of the parlor section by 13/4 inches (44.5mm); or

32 (5) An unobstructed gap created by cutting wires in a wire trap in such a manner as to meet
33 the minimum size and number of vents required under subsections (a)(1) and (a)(2).

34 (b) The vent or gap shall be installed or made in the parlor section on the sides or end panel.

1 No horizontal rectangular vent or gap or circular vent shall be located more than three inches (3")
2 from the sill of the trap. Traps equipped with multiple opposing parlor sections must adhere to the
3 escape vent requirements specified in subsection (a)(1) or (a)(2) in each parlor section. Any fisher
4 not complying with the provisions of this section or § 20-7-10 shall be fined in compliance with §
5 20-3-3.

6 (c) The ~~marine fisheries council~~ director shall have the power to establish larger escape
7 vent sizes by regulation.

8 (d) Each lobster pot shall be separately and plainly buoyed; except that in cases where
9 natural conditions render it impracticable to separately buoy each pot, the director of environmental
10 management may, upon application from any person licensed under this chapter, grant permission
11 to otherwise buoy those pots subject to rules and regulations promulgated by the director; and each
12 and every permit so granted shall set forth the name of the person to whom the permit is granted;
13 the number of the permit; the place or places where the lobster pots are to be located; the manner
14 in which lobster pots shall be set; and the period of time during which the permit shall extend.

15 **20-7-11.1. Lobster pots — Tagging — Advisory committee.**

16 (a) Each and every pot, trap, or other device used for the taking of lobsters or crabs in any
17 of the waters of this state shall bear a color scheme on the attached buoy. Each applicant for a
18 lobster license shall state the color scheme that he or she desires to use. These colors, unless
19 disapproved by the director of environmental management, shall be stated in the license, and all
20 buoys used by the licensee shall be marked accordingly. Each licensee shall cause his or her color
21 scheme to be displayed on any lobster boat used by the licensee in the waters of this state. Those
22 colors shall be painted on the port and starboard sides of the hull in a section not less than one foot
23 (1') square, or a clearly painted buoy shall be set at the highest point on the boat excluding the mast
24 and be visible for three hundred sixty degrees (360 degrees). The buoy or colors must be
25 prominently displayed on the vessel at all times that lobster gear fished under that license is in the
26 water.

27 (b) No person shall place, set, lift, raise, unduly disturb, draw in, or transfer any pot, trap,
28 or other device used for the taking of lobsters unless the color scheme of the attached buoy is the
29 same as the color scheme that is on file with the license application and displayed on the boat used
30 by that person, or unless that person is duly licensed and possesses written permission from the
31 rightful owner of the pot, trap, or other device.

32 (c) The ~~Rhode Island marine fisheries council~~ director has the authority to promulgate
33 regulations requiring the tagging of lobster traps. ~~The director of the department of environmental~~
34 ~~management is authorized to promulgate regulations that~~ and to establish a fee for official state

1 lobster trap tags. Any fee collected by the department will be retained by the agency, subject to §
2 20-2-28.2, to be used for the exclusive purpose of producing and distributing the trap tags and, if
3 necessary, supporting other lobster fishery management measures, including enforcement of the
4 trap tag program; provided, however, that: (1) The department shall not establish a fee to cover any
5 cost other than the cost of trap tags without first obtaining a recommendation from an advisory
6 committee in accordance with subsection (d); and (2) The department shall report to the general
7 assembly regarding the need for the fee to cover any additional cost in accordance with subsection
8 (d).

9 (d) The department shall create an advisory committee composed of five (5) members of
10 the lobster industry that utilize trap tags. The director, or his or her designee, will serve on the
11 committee and act as chairperson. The committee will formulate recommendations on the
12 expenditure of the funds derived from the tagging program. The department shall prepare an annual
13 report for submittal to the general assembly that summarizes the status of the lobster management
14 and trap tag program, management actions, program needs, and catch and effort data, and that
15 provides an itemized listing of all program expenses. This report shall be available to the public
16 and provided to each commercial fishing organization in the state.

17 **20-7-15. Methods of taking blue crabs — Nonresidents.**

18 Unless otherwise specified by regulation ~~of the marine fisheries council~~, no person shall
19 take, or attempt to take, any blue crabs from any of the waters in this state except by a scoop or
20 crab net, trot, or land line. Taking of blue crabs shall be restricted to residents of this state. No
21 person shall take blue crabs from the waters of the state between the hours of sunset and sunrise.

22 **20-7-16. Egg-bearing blue crabs — Minimum size.**

23 No person shall take, offer for sale, or possess at any time any female blue crab bearing
24 eggs visible thereon, or from which the egg pouch or bunion has been removed. Unless otherwise
25 specified by regulation ~~of the marine fisheries council~~, no person shall take, buy, sell, give away,
26 expose for sale, or possess any blue crab measuring less than four and one eighth inches (4 $\frac{1}{8}$ "")
27 across the shell from tip to tip of spike.

28 SECTION 7. Section 42-17.1-2 of the General Laws in Chapter 42-17.1 entitled
29 "Department of Environmental Management" is hereby amended to read as follows:

30 **42-17.1-2. Powers and duties.**

31 The director of environmental management shall have the following powers and duties:

32 (1) To supervise and control the protection, development, planning, and utilization of the
33 natural resources of the state, such resources, including, but not limited to: water, plants, trees, soil,
34 clay, sand, gravel, rocks and other minerals, air, mammals, birds, reptiles, amphibians, fish,

1 shellfish, and other forms of aquatic, insect, and animal life;

2 (2) To exercise all functions, powers, and duties heretofore vested in the department of
3 agriculture and conservation, and in each of the divisions of the department, such as the promotion
4 of agriculture and animal husbandry in their several branches, including the inspection and
5 suppression of contagious diseases among animals; the regulation of the marketing of farm
6 products; the inspection of orchards and nurseries; the protection of trees and shrubs from injurious
7 insects and diseases; protection from forest fires; the inspection of apiaries and the suppression of
8 contagious diseases among bees; the prevention of the sale of adulterated or misbranded
9 agricultural seeds; promotion and encouragement of the work of farm bureaus, in cooperation with
10 the University of Rhode Island, farmers' institutes, and the various organizations established for
11 the purpose of developing an interest in agriculture; together with such other agencies and activities
12 as the governor and the general assembly may, from time to time, place under the control of the
13 department; and as heretofore vested by such of the following chapters and sections of the general
14 laws as are presently applicable to the department of environmental management and that were
15 previously applicable to the department of natural resources and the department of agriculture and
16 conservation or to any of its divisions: chapters 1 through 22, inclusive, as amended, in title 2
17 entitled "Agriculture and Forestry"; chapters 1 through 17, inclusive, as amended, in title 4 entitled
18 "Animals and Animal Husbandry"; chapters 1 through 19, inclusive, as amended, in title 20 entitled
19 "Fish and Wildlife"; chapters 1 through 32, inclusive, as amended, in title 21 entitled "Food and
20 Drugs"; chapter 7 of title 23, as amended, entitled "Mosquito Abatement"; and by any other general
21 or public law relating to the department of agriculture and conservation or to any of its divisions or
22 bureaus;

23 (3) To exercise all the functions, powers, and duties heretofore vested in the division of
24 parks and recreation of the department of public works by chapters 1, 2, and 5 in title 32 entitled
25 "Parks and Recreational Areas"; by chapter 22.5 of title 23, as amended, entitled "Drowning
26 Prevention and Lifesaving"; and by any other general or public law relating to the division of parks
27 and recreation;

28 (4) To exercise all the functions, powers, and duties heretofore vested in the division of
29 harbors and rivers of the department of public works, or in the department itself by such as were
30 previously applicable to the division or the department, of chapters 1 through 22 and sections
31 thereof, as amended, in title 46 entitled "Waters and Navigation"; and by any other general or public
32 law relating to the division of harbors and rivers;

33 (5) To exercise all the functions, powers, and duties heretofore vested in the department of
34 health by chapters 25, 18.9, and 19.5 of title 23, as amended, entitled "Health and Safety"; and by

1 chapters 12 and 16 of title 46, as amended, entitled “Waters and Navigation”; by chapters 3, 4, 5,
2 6, 7, 9, 11, 13, 18, and 19 of title 4, as amended, entitled “Animals and Animal Husbandry”; and
3 those functions, powers, and duties specifically vested in the director of environmental
4 management by the provisions of § 21-2-22, as amended, entitled “Inspection of Animals and
5 Milk”; together with other powers and duties of the director of the department of health as are
6 incidental to, or necessary for, the performance of the functions transferred by this section;

7 (6) To cooperate with the Rhode Island commerce corporation in its planning and
8 promotional functions, particularly in regard to those resources relating to agriculture, fisheries,
9 and recreation;

10 (7) To cooperate with, advise, and guide conservation commissions of cities and towns
11 created under chapter 35 of title 45 entitled “Conservation Commissions”, as enacted by chapter
12 203 of the Public Laws, 1960;

13 (8) To assign or reassign, with the approval of the governor, any functions, duties, or
14 powers established by this chapter to any agency within the department, except as hereinafter
15 limited;

16 (9) To cooperate with the water resources board and to provide to the board facilities,
17 administrative support, staff services, and other services as the board shall reasonably require for
18 its operation and, in cooperation with the board and the statewide planning program, to formulate
19 and maintain a long-range guide plan and implementing program for development of major water-
20 sources transmission systems needed to furnish water to regional- and local-distribution systems;

21 (10) To cooperate with the solid waste management corporation and to provide to the
22 corporation such facilities, administrative support, staff services, and other services within the
23 department as the corporation shall reasonably require for its operation;

24 (11) To provide for the maintenance of waterways and boating facilities, consistent with
25 chapter 6.1 of title 46, by: (i) Establishing minimum standards for upland beneficial use and
26 disposal of dredged material; (ii) Promulgating and enforcing rules for water quality, ground water
27 protection, and fish and wildlife protection pursuant to § 42-17.1-24; (iii) Planning for the upland
28 beneficial use and/or disposal of dredged material in areas not under the jurisdiction of the council
29 pursuant to § 46-23-6(2); and (iv) Cooperating with the coastal resources management council in
30 the development and implementation of comprehensive programs for dredging as provided for in
31 §§ 46-23-6(1)(ii)(H) and 46-23-18.3; and (v) Monitoring dredge material management and disposal
32 sites in accordance with the protocols established pursuant to § 46-6.1-5(a)(3) and the
33 comprehensive program provided for in § 46-23-6(1)(ii)(H); no powers or duties granted herein
34 shall be construed to abrogate the powers or duties granted to the coastal resources management

1 council under chapter 23 of title 46, as amended;

2 (12) To establish minimum standards, subject to the approval of the environmental
3 standards board, relating to the location, design, construction, and maintenance of all sewage-
4 disposal systems;

5 (13) To enforce, by such means as provided by law, the standards for the quality of air, and
6 water, and the design, construction, and operation of all sewage-disposal systems; any order or
7 notice issued by the director relating to the location, design, construction, or maintenance of a
8 sewage-disposal system shall be eligible for recordation under chapter 13 of title 34. The director
9 shall forward the order or notice to the city or town wherein the subject property is located and the
10 order or notice shall be recorded in the general index by the appropriate municipal official in the
11 land evidence records in the city or town wherein the subject property is located. Any subsequent
12 transferee of that property shall be responsible for complying with the requirements of the order or
13 notice. Upon satisfactory completion of the requirements of the order or notice, the director shall
14 provide written notice of the same, which notice shall be similarly eligible for recordation. The
15 original written notice shall be forwarded to the city or town wherein the subject property is located
16 and the notice of satisfactory completion shall be recorded in the general index by the appropriate
17 municipal official in the land evidence records in the city or town wherein the subject property is
18 located. A copy of the written notice shall be forwarded to the owner of the subject property within
19 five (5) days of a request for it, and, in any event, shall be forwarded to the owner of the subject
20 property within thirty (30) days after correction;

21 (14) To establish minimum standards for the establishment and maintenance of salutary
22 environmental conditions, including standards and methods for the assessment and the
23 consideration of the cumulative effects on the environment of regulatory actions and decisions,
24 which standards for consideration of cumulative effects shall provide for: (i) Evaluation of potential
25 cumulative effects that could adversely affect public health and/or impair ecological functioning;
26 (ii) Analysis of other matters relative to cumulative effects as the department may deem appropriate
27 in fulfilling its duties, functions, and powers; which standards and methods shall only be applicable
28 to ISDS systems in the town of Jamestown in areas that are dependent for water supply on private
29 and public wells, unless broader use is approved by the general assembly. The department shall
30 report to the general assembly not later than March 15, 2008, with regard to the development and
31 application of the standards and methods in Jamestown;

32 (15) To establish and enforce minimum standards for permissible types of septage,
33 industrial-waste disposal sites, and waste-oil disposal sites;

34 (16) To establish minimum standards, subject to the approval of the environmental

1 standards board, for permissible types of refuse disposal facilities; the design, construction,
2 operation, and maintenance of disposal facilities; and the location of various types of facilities;

3 (17) To exercise all functions, powers, and duties necessary for the administration of
4 chapter 19.1 of title 23 entitled "Rhode Island Hazardous Waste Management Act";

5 (18) To designate, in writing, any person in any department of the state government or any
6 official of a district, county, city, town, or other governmental unit, with that official's consent, to
7 enforce any rule, regulation, or order promulgated and adopted by the director under any provision
8 of law; provided, however, that enforcement of powers of the coastal resources management
9 council shall be assigned only to employees of the department of environmental management,
10 except by mutual agreement or as otherwise provided in chapter 23 of title 46;

11 (19) To issue and enforce the rules, regulations, and orders as may be necessary to carry
12 out the duties assigned to the director and the department by any provision of law; and to conduct
13 investigations and hearings and to issue, suspend, and revoke licenses as may be necessary to
14 enforce those rules, regulations, and orders. Any license suspended under the rules, regulations,
15 and/or orders shall be terminated and revoked if the conditions that led to the suspension are not
16 corrected to the satisfaction of the director within two (2) years; provided that written notice is
17 given by certified mail, return receipt requested, no less than sixty (60) days prior to the date of
18 termination.

19 Notwithstanding the provisions of § 42-35-9 to the contrary, no informal disposition of a
20 contested licensing matter shall occur where resolution substantially deviates from the original
21 application unless all interested parties shall be notified of the proposed resolution and provided
22 with opportunity to comment upon the resolution pursuant to applicable law and any rules and
23 regulations established by the director;

24 (20) To enter, examine, or survey, at any reasonable time, places as the director deems
25 necessary to carry out his or her responsibilities under any provision of law subject to the following
26 provisions:

27 (i) For criminal investigations, the director shall, pursuant to chapter 5 of title 12, seek a
28 search warrant from an official of a court authorized to issue warrants, unless a search without a
29 warrant is otherwise allowed or provided by law;

30 (ii)(A) All administrative inspections shall be conducted pursuant to administrative
31 guidelines promulgated by the department in accordance with chapter 35 of this title;

32 (B) A warrant shall not be required for administrative inspections if conducted under the
33 following circumstances, in accordance with the applicable constitutional standards:

34 (I) For closely regulated industries;

1 (II) In situations involving open fields or conditions that are in plain view;

2 (III) In emergency situations;

3 (IV) In situations presenting an imminent threat to the environment or public health, safety,
4 or welfare;

5 (V) If the owner, operator, or agent in charge of the facility, property, site, or location
6 consents; or

7 (VI) In other situations in which a warrant is not constitutionally required.

8 (C) Whenever it shall be constitutionally or otherwise required by law, or whenever the
9 director in his or her discretion deems it advisable, an administrative search warrant, or its
10 functional equivalent, may be obtained by the director from a neutral magistrate for the purpose of
11 conducting an administrative inspection. The warrant shall be issued in accordance with the
12 applicable constitutional standards for the issuance of administrative search warrants. The
13 administrative standard of probable cause, not the criminal standard of probable cause, shall apply
14 to applications for administrative search warrants;

15 (I) The need for, or reliance upon, an administrative warrant shall not be construed as
16 requiring the department to forfeit the element of surprise in its inspection efforts;

17 (II) An administrative warrant issued pursuant to this subsection must be executed and
18 returned within ten (10) days of its issuance date unless, upon a showing of need for additional
19 time, the court orders otherwise;

20 (III) An administrative warrant may authorize the review and copying of documents that
21 are relevant to the purpose of the inspection. If documents must be seized for the purpose of
22 copying, and the warrant authorizes the seizure, the person executing the warrant shall prepare an
23 inventory of the documents taken. The time, place, and manner regarding the making of the
24 inventory shall be set forth in the terms of the warrant itself, as dictated by the court. A copy of the
25 inventory shall be delivered to the person from whose possession or facility the documents were
26 taken. The seized documents shall be copied as soon as feasible under circumstances preserving
27 their authenticity, then returned to the person from whose possession or facility the documents were
28 taken;

29 (IV) An administrative warrant may authorize the taking of samples of air, water, or soil
30 or of materials generated, stored, or treated at the facility, property, site, or location. Upon request,
31 the department shall make split samples available to the person whose facility, property, site, or
32 location is being inspected;

33 (V) Service of an administrative warrant may be required only to the extent provided for
34 in the terms of the warrant itself, by the issuing court.

1 (D) Penalties. Any willful and unjustified refusal of right of entry and inspection to
2 department personnel pursuant to an administrative warrant shall constitute a contempt of court and
3 shall subject the refusing party to sanctions, which in the court's discretion may result in up to six
4 (6) months imprisonment and/or a monetary fine of up to ten thousand dollars (\$10,000) per refusal;

5 (21) To give notice of an alleged violation of law to the person responsible therefor
6 whenever the director determines that there are reasonable grounds to believe that there is a
7 violation of any provision of law within his or her jurisdiction or of any rule or regulation adopted
8 pursuant to authority granted to him or her. Nothing in this chapter shall limit the authority of the
9 attorney general to prosecute offenders as required by law;

10 (i) The notice shall provide for a time within which the alleged violation shall be remedied,
11 and shall inform the person to whom it is directed that a written request for a hearing on the alleged
12 violation may be filed with the director within twenty (20) days after service of the notice. The
13 notice will be deemed properly served upon a person if a copy thereof is served him or her
14 personally; or sent by registered or certified mail to his or her last known address; or if he or she is
15 served with notice by any other method of service now or hereafter authorized in a civil action
16 under the laws of this state. If no written request for a hearing is made to the director within twenty
17 (20) days of the service of notice, the notice shall automatically become a compliance order;

18 (ii)(A) Whenever the director determines that there exists a violation of any law, rule, or
19 regulation within his or her jurisdiction that requires immediate action to protect the environment,
20 he or she may, without prior notice of violation or hearing, issue an immediate-compliance order
21 stating the existence of the violation and the action he or she deems necessary. The compliance
22 order shall become effective immediately upon service or within such time as is specified by the
23 director in such order. No request for a hearing on an immediate-compliance order may be made;

24 (B) Any immediate-compliance order issued under this section without notice and prior
25 hearing shall be effective for no longer than forty-five (45) days; provided, however, that for good
26 cause shown, the order may be extended one additional period not exceeding forty-five (45) days;

27 (iii) The director may, at his or her discretion and for the purposes of timely and effective
28 resolution and return to compliance, cite a person for alleged noncompliance through the issuance
29 of an expedited citation in accordance with § 42-17.6-3(c);

30 (iv) If a person upon whom a notice of violation has been served under the provisions of
31 this section or if a person aggrieved by any such notice of violation requests a hearing before the
32 director within twenty (20) days of the service of notice of violation, the director shall set a time
33 and place for the hearing, and shall give the person requesting that hearing at least five (5) days'
34 written notice thereof. After the hearing, the director may make findings of fact and shall sustain,

1 modify, or withdraw the notice of violation. If the director sustains or modifies the notice, that
2 decision shall be deemed a compliance order and shall be served upon the person responsible in
3 any manner provided for the service of the notice in this section;

4 (v) The compliance order shall state a time within which the violation shall be remedied,
5 and the original time specified in the notice of violation shall be extended to the time set in the
6 order;

7 (vi) Whenever a compliance order has become effective, whether automatically where no
8 hearing has been requested, where an immediate compliance order has been issued, or upon
9 decision following a hearing, the director may institute injunction proceedings in the superior court
10 of the state for enforcement of the compliance order and for appropriate temporary relief, and in
11 that proceeding, the correctness of a compliance order shall be presumed and the person attacking
12 the order shall bear the burden of proving error in the compliance order, except that the director
13 shall bear the burden of proving in the proceeding the correctness of an immediate compliance
14 order. The remedy provided for in this section shall be cumulative and not exclusive and shall be
15 in addition to remedies relating to the removal or abatement of nuisances or any other remedies
16 provided by law;

17 (vii) Any party aggrieved by a final judgment of the superior court may, within thirty (30)
18 days from the date of entry of such judgment, petition the supreme court for a writ of certiorari to
19 review any questions of law. The petition shall set forth the errors claimed. Upon the filing of the
20 petition with the clerk of the supreme court, the supreme court may, if it sees fit, issue its writ of
21 certiorari;

22 (22) To impose administrative penalties in accordance with the provisions of chapter 17.6
23 of this title and to direct that such penalties be paid into the account established by subdivision (26);

24 (23) The following definitions shall apply in the interpretation of the provisions of this
25 chapter:

26 (i) *Director*: The term “director” shall mean the director of environmental management of
27 the state of Rhode Island or his or her duly authorized agent;

28 (ii) *Person*: The term “person” shall include any individual, group of individuals, firm,
29 corporation, association, partnership, or private or public entity, including a district, county, city,
30 town, or other governmental unit or agent thereof, and in the case of a corporation, any individual
31 having active and general supervision of the properties of the corporation;

32 (iii) *Service*:

33 (A) Service upon a corporation under this section shall be deemed to include service upon
34 both the corporation and upon the person having active and general supervision of the properties

1 of the corporation;

2 (B) For purposes of calculating the time within which a claim for a hearing is made
3 pursuant to subdivision (21)(i), service shall be deemed to be the date of receipt of such notice or
4 three (3) days from the date of mailing of the notice, whichever shall first occur;

5 (24)(i) To conduct surveys of the present private and public camping and other recreational
6 areas available and to determine the need for and location of other camping and recreational areas
7 as may be deemed necessary and in the public interest of the state of Rhode Island and to report
8 back its findings on an annual basis to the general assembly on or before March 1 of every year;

9 (ii) Additionally, the director of the department of environmental management shall take
10 additional steps, including, but not limited to, matters related to funding as may be necessary to
11 establish such other additional recreational facilities and areas as are deemed to be in the public
12 interest;

13 (25)(i) To apply for and accept grants and bequests of funds, with the approval of the
14 director of administration, from other states, interstate agencies, and independent authorities, and
15 private firms, individuals, and foundations, for the purpose of carrying out his or her lawful
16 responsibilities. The funds shall be deposited with the general treasurer in a restricted receipt
17 account created in the natural resources program for funds made available for that program's
18 purposes or in a restricted receipt account created in the environmental protection program for
19 funds made available for that program's purposes. All expenditures from the accounts shall be
20 subject to appropriation by the general assembly, and shall be expended in accordance with the
21 provisions of the grant or bequest. In the event that a donation or bequest is unspecified, or in the
22 event that the trust account balance shows a surplus after the project as provided for in the grant or
23 bequest has been completed, the director may utilize the appropriated unspecified or appropriated
24 surplus funds for enhanced management of the department's forest and outdoor public recreation
25 areas, or other projects or programs that promote the accessibility of recreational opportunities for
26 Rhode Island residents and visitors;

27 (ii) The director shall submit to the house fiscal advisor and the senate fiscal advisor, by
28 October 1 of each year, a detailed report on the amount of funds received and the uses made of such
29 funds;

30 (26) To establish fee schedules by regulation, with the approval of the governor, for the
31 processing of applications and the performing of related activities in connection with the
32 department's responsibilities pursuant to subsection (12); chapter 19.1 of title 23, as it relates to
33 inspections performed by the department to determine compliance with chapter 19.1 and rules and
34 regulations promulgated in accordance therewith; chapter 18.9 of title 23, as it relates to inspections

1 performed by the department to determine compliance with chapter 18.9 and the rules and
2 regulations promulgated in accordance therewith; chapters 19.5 and 23 of title 23; chapter 12 of
3 title 46, insofar as it relates to water-quality certifications and related reviews performed pursuant
4 to provisions of the federal Clean Water Act, 33 U.S.C. § 1251 et seq.; the regulation and
5 administration of underground storage tanks and all other programs administered under chapter 12
6 of title 46 and § 2-1-18 et seq., and chapter 13.1 of title 46 and chapter 13.2 of title 46, insofar as
7 they relate to any reviews and related activities performed under the provisions of the Groundwater
8 Protection Act; chapter 24.9 of title 23 as it relates to the regulation and administration of mercury-
9 added products; and chapter 17.7 of this title, insofar as it relates to administrative appeals of all
10 enforcement, permitting and licensing matters to the administrative adjudication division for
11 environmental matters. Two (2) fee ranges shall be required: for “Appeal of enforcement actions,”
12 a range of fifty dollars (\$50) to one hundred dollars (\$100), and for “Appeal of application
13 decisions,” a range of five hundred dollars (\$500) to ten thousand dollars (\$10,000). The monies
14 from the administrative adjudication fees will be deposited as general revenues and the amounts
15 appropriated shall be used for the costs associated with operating the administrative adjudication
16 division.

17 There is hereby established an account within the general fund to be called the water and
18 air protection program. The account shall consist of sums appropriated for water and air pollution
19 control and waste-monitoring programs and the state controller is hereby authorized and directed
20 to draw his or her orders upon the general treasurer for the payment of the sums, or portions thereof,
21 as may be required, from time to time, upon receipt by him or her of properly authenticated
22 vouchers. All amounts collected under the authority of this subdivision for the sewage-disposal-
23 system program and freshwater wetlands program will be deposited as general revenues and the
24 amounts appropriated shall be used for the purposes of administering and operating the programs.
25 The director shall submit to the house fiscal advisor and the senate fiscal advisor by January 15 of
26 each year a detailed report on the amount of funds obtained from fines and fees and the uses made
27 of the funds;

28 (27) To establish and maintain a list or inventory of areas within the state worthy of special
29 designation as “scenic” to include, but not be limited to, certain state roads or highways, scenic
30 vistas, and scenic areas, and to make the list available to the public;

31 (28) To establish and maintain an inventory of all interests in land held by public and
32 private land trust and to exercise all powers vested herein to ensure the preservation of all identified
33 lands;

34 (i) The director may promulgate and enforce rules and regulations to provide for the orderly

1 and consistent protection, management, continuity of ownership and purpose, and centralized
2 records-keeping for lands, water, and open spaces owned in fee or controlled in full or in part
3 through other interests, rights, or devices such as conservation easements or restrictions, by private
4 and public land trusts in Rhode Island. The director may charge a reasonable fee for filing of each
5 document submitted by a land trust;

6 (ii) The term “public land trust” means any public instrumentality created by a Rhode
7 Island municipality for the purposes stated herein and financed by means of public funds collected
8 and appropriated by the municipality. The term “private land trust” means any group of five (5) or
9 more private citizens of Rhode Island who shall incorporate under the laws of Rhode Island as a
10 nonbusiness corporation for the purposes stated herein, or a national organization such as the nature
11 conservancy. The main purpose of either a public or a private land trust shall be the protection,
12 acquisition, or control of land, water, wildlife, wildlife habitat, plants, and/or other natural features,
13 areas, or open space for the purpose of managing or maintaining, or causing to be managed or
14 maintained by others, the land, water, and other natural amenities in any undeveloped and relatively
15 natural state in perpetuity. A private land trust must be granted exemption from federal income tax
16 under Internal Revenue Code 501(c)(3) [26 U.S.C. § 501(c)(3)] within two (2) years of its
17 incorporation in Rhode Island or it may not continue to function as a land trust in Rhode Island. A
18 private land trust may not be incorporated for the exclusive purpose of acquiring or accepting
19 property or rights in property from a single individual, family, corporation, business, partnership,
20 or other entity. Membership in any private land trust must be open to any individual subscribing to
21 the purposes of the land trust and agreeing to abide by its rules and regulations including payment
22 of reasonable dues;

23 (iii)(A) Private land trusts will, in their articles of association or their bylaws, as
24 appropriate, provide for the transfer to an organization, created for the same or similar purposes, of
25 the assets, lands and land rights, and interests held by the land trust in the event of termination or
26 dissolution of the land trust;

27 (B) All land trusts, public and private, will record in the public records, of the appropriate
28 towns and cities in Rhode Island, all deeds, conservation easements, or restrictions or other interests
29 and rights acquired in land and will also file copies of all such documents and current copies of
30 their articles of association, their bylaws, and their annual reports with the secretary of state and
31 with the director of the Rhode Island department of environmental management. The director is
32 hereby directed to establish and maintain permanently a system for keeping records of all private
33 and public land trust land holdings in Rhode Island;

34 (29) The director will contact in writing, not less often than once every two (2) years, each

1 public or private land trust to ascertain: that all lands held by the land trust are recorded with the
2 director; the current status and condition of each land holding; that any funds or other assets of the
3 land trust held as endowment for specific lands have been properly audited at least once within the
4 two-year (2) period; the name of the successor organization named in the public or private land
5 trust's bylaws or articles of association; and any other information the director deems essential to
6 the proper and continuous protection and management of land and interests or rights in land held
7 by the land trust. In the event that the director determines that a public or private land trust holding
8 land or interest in land appears to have become inactive, he or she shall initiate proceedings to
9 effect the termination of the land trust and the transfer of its lands, assets, land rights, and land
10 interests to the successor organization named in the defaulting trust's bylaws or articles of
11 association or to another organization created for the same or similar purposes. Should such a
12 transfer not be possible, then the land trust, assets, and interest and rights in land will be held in
13 trust by the state of Rhode Island and managed by the director for the purposes stated at the time
14 of original acquisition by the trust. Any trust assets or interests other than land or rights in land
15 accruing to the state under such circumstances will be held and managed as a separate fund for the
16 benefit of the designated trust lands;

17 (30) Consistent with federal standards, issue and enforce such rules, regulations, and orders
18 as may be necessary to establish requirements for maintaining evidence of financial responsibility
19 for taking corrective action and compensating third parties for bodily injury and property damage
20 caused by sudden and non-sudden accidental releases arising from operating underground storage
21 tanks;

22 (31) To enforce, by such means as provided by law, the standards for the quality of air, and
23 water, and the location, design, construction, and operation of all underground storage facilities
24 used for storing petroleum products or hazardous materials; any order or notice issued by the
25 director relating to the location, design, construction, operation, or maintenance of an underground
26 storage facility used for storing petroleum products or hazardous materials shall be eligible for
27 recordation under chapter 13 of title 34. The director shall forward the order or notice to the city or
28 town wherein the subject facility is located, and the order or notice shall be recorded in the general
29 index by the appropriate municipal officer in the land-evidence records in the city or town wherein
30 the subject facility is located. Any subsequent transferee of that facility shall be responsible for
31 complying with the requirements of the order or notice. Upon satisfactory completion of the
32 requirements of the order or notice, the director shall provide written notice of the same, which
33 notice shall be eligible for recordation. The original, written notice shall be forwarded to the city
34 or town wherein the subject facility is located, and the notice of satisfactory completion shall be

1 recorded in the general index by the appropriate municipal official in the land-evidence records in
2 the city or town wherein the subject facility is located. A copy of the written notice shall be
3 forwarded to the owner of the subject facility within five (5) days of a request for it, and, in any
4 event, shall be forwarded to the owner of the subject facility within thirty (30) days after correction;

5 (32) To manage and disburse any and all funds collected pursuant to § 46-12.9-4, in
6 accordance with § 46-12.9-5, and other provisions of the Rhode Island Underground Storage Tank
7 Financial Responsibility Act, as amended;

8 (33) To support, facilitate, and assist the Rhode Island Natural History Survey, as
9 appropriate and/or as necessary, in order to accomplish the important public purposes of the survey
10 in gathering and maintaining data on Rhode Island natural history; making public presentations and
11 reports on natural history topics; ranking species and natural communities; monitoring rare species
12 and communities; consulting on open-space acquisitions and management plans; reviewing
13 proposed federal and state actions and regulations with regard to their potential impact on natural
14 communities; and seeking outside funding for wildlife management, land management, and
15 research;

16 (34) To promote the effective stewardship of lakes, ponds, rivers, and streams including,
17 but not limited to, collaboration with watershed organizations and associations of lakefront property
18 owners on planning and management actions that will prevent and mitigate water quality
19 degradation, reduce the loss of native habitat due to infestation of non-native species, abate
20 nuisance conditions that result from excessive growth of algal or non-native plant species as well
21 as promote healthy freshwater riverine ecosystems;

22 (35) In implementing the programs established pursuant to this chapter, to identify critical
23 areas for improving service to customers doing business with the department, and to develop and
24 implement strategies to improve performance and effectiveness in those areas. Key aspects of a
25 customer-service program shall include, but not necessarily be limited to, the following
26 components:

27 (i) Maintenance of an organizational unit within the department with the express purpose
28 of providing technical assistance to customers and helping customers comply with environmental
29 regulations and requirements;

30 (ii) Maintenance of an employee-training program to promote customer service across the
31 department;

32 (iii) Implementation of a continuous business process evaluation and improvement effort,
33 including process reviews to encourage development of quality proposals; ensure timely and
34 predictable reviews; and result in effective decisions and consistent follow up and implementation

1 throughout the department; and publish an annual report on such efforts;

2 (iv) Creation of a centralized location for the acceptance of permit applications and other
3 submissions to the department;

4 (v) Maintenance of a process to promote, organize, and facilitate meetings prior to the
5 submission of applications or other proposals in order to inform the applicant on options and
6 opportunities to minimize environmental impact; improve the potential for sustainable
7 environmental compliance; and support an effective and efficient review and decision-making
8 process on permit applications related to the proposed project;

9 (vi) Development of single permits under multiple authorities otherwise provided in state
10 law to support comprehensive and coordinated reviews of proposed projects. The director may
11 address and resolve conflicting or redundant process requirements in order to achieve an effective
12 and efficient review process that meets environmental objectives; and

13 (vii) Exploration of the use of performance-based regulations coupled with adequate
14 inspection and oversight, as an alternative to requiring applications or submissions for approval
15 prior to initiation of projects. The department shall work with the office of regulatory reform to
16 evaluate the potential for adopting alternative compliance approaches and provide a report to the
17 governor and the general assembly by May 1, 2015;

18 (36) To formulate and promulgate regulations requiring any dock or pier longer than twenty
19 feet (20') and located on a freshwater lake or pond to be equipped with reflective materials, on all
20 sides facing the water, of an appropriate width and luminosity such that it can be seen by operators
21 of watercraft; and

22 (37) To temporarily waive any control or prohibition respecting the use of a fuel or fuel
23 additive required or regulated by the department if the director finds that:

24 (i) Extreme or unusual fuel or fuel additive supply circumstances exist in the state or the
25 New England region that prevent the distribution of an adequate supply of the fuel or fuel additive
26 to consumers;

27 (ii) Extreme or unusual fuel or fuel additive supply circumstances are the result of a natural
28 disaster, an act of God, a pipeline or refinery equipment failure, or another event that could not
29 reasonably have been foreseen; and

30 (iii) It is in the public interest to grant the waiver.

31 Any temporary waiver shall be made in writing and shall be effective for twenty (20)
32 calendar days; provided, that the director may renew the temporary waiver, in writing, if it is
33 deemed necessary.

34 [\(38\)\(i\) To designate by rule certain waters of the state as shellfish or marine life project](#)

1 management areas for the purpose of enhancing the cultivation and growth of marine species,
2 managing the harvest of marine species, facilitating the conduct by the department of experiments
3 in planting, cultivating, propagating, managing, and developing any and all kinds of marine life,
4 and any other related purpose.

5 (ii) Any such designation shall be by reference to fixed landmarks and include an explicit
6 description of the area to be designated.

7 (iii) Once so designated, the director may adopt any rules and regulations deemed
8 necessary for the protection and management of the management area and the animal life and
9 property in the management area, including the restrictions on the quantities, types, or sizes of
10 marine species which may be taken in such area, the times during which marine species may be
11 taken, the manner or manners in which marine species may be taken, the closure of such area to the
12 taking of marine species, or any other restrictions as may be deemed necessary. Such rules shall be
13 exempt from the requirements of §§ 42-35-2.7, 42-35-2.8, and 42-35-2.9.

14 (iv) The director, upon the designation of a management area, may place any stakes,
15 bounds, buoys or markers with the words "Rhode Island department of environmental
16 management" plainly marked on them, as will approximate the management area. Failure to place
17 or maintain the stakes, bounds, buoys, or markers shall not be admissible in any judicial or
18 administrative proceeding.

19 (v) Nothing in this section shall prevent the director from implementing emergency rules
20 pursuant to § 42-35-2.10.

21 SECTION 8. Chapter 20-1 of the General Laws entitled "General Provisions" is hereby
22 amended by adding thereto the following section:

23 **20-1-30. Regulation of fishing in Great Salt Pond.**

24 Notwithstanding the provisions of this title, the electors of the town of New Shoreham may,
25 in a town meeting called for that purpose, enact any ordinances to protect and to regulate the taking
26 of shellfish and other fish in Great Salt Pond, and may impose penalties for violations of these
27 ordinances not exceeding a fine or two hundred dollars (\$200) and three (3) months imprisonment
28 for any one offense.

29 SECTION 9. Chapter 20-3 of the General Laws entitled "Marine Fisheries Council" is
30 hereby amended by adding thereto the following sections:

31 **20-3-8. Established of advisory committees.**

32 The marine fisheries council may establish any advisory committees or panels that it may
33 deem appropriate to fulfill its responsibilities.

34 **20-3-9. Administrative support provided by the division of marine fisheries.**

1 The division of marine fisheries within the department of environmental management shall
2 provide administrative support functions to the marine fisheries council including, but not limited
3 to, agenda development, mailings, preparation of meeting minutes, meeting notices, and advisory
4 committee guidance.

5 SECTION 10. Sections 20-2.1-10 and 20-2.1-11 of the General Laws in Chapter 20-2.1
6 entitled "Commercial Fishing Licenses" are hereby repealed.

7 ~~**20-2.1-10. Powers and duties of the marine fisheries council with regard to licensure.**~~

8 ~~The marine fisheries council, established by chapter 3 of this title, shall have the power and~~
9 ~~the duty to advise the director in accordance with § 20-2.1-9(3) on all rules, except emergency~~
10 ~~rules, necessary to implement the provisions of this chapter. The council may establish any~~
11 ~~committees and hold any meetings and hearings that it may deem appropriate to fulfill this~~
12 ~~responsibility. The council shall advise the director on the development of the regulatory agenda~~
13 ~~for marine fisheries and shall have the power to initiate rule making by petition as provided for in~~
14 ~~§ 42-35-6. The council shall advise the department concerning the development of annual plans for~~
15 ~~the allocation and use of the funds made available to the department from commercial fishing~~
16 ~~license fees, tags, permits, and vessel fees as provided in § 20-2-28.2.~~

17 ~~**20-2.1-11. Industry advisory committee.**~~

18 ~~The council shall establish an industry advisory committee to provide coordination among~~
19 ~~commercial fisheries sectors and to review plans and recommendations that affect more than~~
20 ~~commercial fishery sector, and to advise the council and the department on matters that affect~~
21 ~~commercial fishing as a whole, which committee shall include representatives of each commercial~~
22 ~~fisheries sector and of manners of commercial fishing.~~

23 SECTION 11. Sections 20-3-3, 20-3-4, 20-3-6 and 20-3-7 of the General Laws in Chapter
24 20-3 entitled "Marine Fisheries Council" are hereby repealed.

25 ~~**20-3-3. Penalties.**~~

26 ~~Unless another penalty is specified in this title, any person who violates a rule or regulation~~
27 ~~of the marine fisheries council shall, upon conviction, be punished by a fine of not more than five~~
28 ~~hundred dollars (\$500), or imprisonment for not more than thirty (30) days, or both.~~

29 ~~**20-3-4. Shellfish and marine life management areas.**~~

30 ~~The council may recommend to the director of environmental management, the designation~~
31 ~~of certain portions of the shores of the public waters of the state, or land within the state covered~~
32 ~~by tidewater at either high or low tide, or portions of the free and common fisheries of the state as~~
33 ~~shellfish or marine life project management areas for the purpose of enhancing the cultivation and~~
34 ~~growth of marine species; managing the harvest of marine species; facilitating the conduct by the~~

1 ~~department of experiments in planting, cultivating, propagating, managing, and developing any and~~
2 ~~all kinds of marine life; and any other related purpose. The designation shall be pursuant to the~~
3 ~~Administrative Procedures Act, chapter 35 of title 42, and shall be by reference to fixed landmarks.~~
4 ~~The council, upon the designation of a management area, shall propose any rules and regulations~~
5 ~~as it shall deem necessary for the protection and management of the management area and the~~
6 ~~animal life and property in the management area, including the exclusion or restriction of persons~~
7 ~~from the area or the prohibition of certain activities within the areas or other restrictions as it may~~
8 ~~deem necessary. Upon the designation of a management area, the director of environmental~~
9 ~~management shall place any stakes, bounds, buoys, or markers with the words “Rhode Island~~
10 ~~department of environmental management” plainly marked on them, as will approximate the~~
11 ~~management area. Failure to place or maintain the stakes, bounds, buoys, or markers shall not be~~
12 ~~admissible in any judicial or administrative proceeding. The director may make any experiments~~
13 ~~or conduct any activities as in his or her discretion are appropriate in these management areas.~~

14 **20-3-6. Suspension and revocation of licenses.**

15 ~~The director of environmental management has the authority to suspend or revoke any~~
16 ~~shellfishing, lobster, or fishing license issued pursuant to any provision of this title, for violation of~~
17 ~~a rule and regulation adopted by the marine fisheries council, in any manner and for any period as~~
18 ~~the director determines by regulation. Any person aggrieved by an order of suspension or~~
19 ~~revocation may appeal the order in accordance with the provisions of the Administrative Procedures~~
20 ~~Act, chapter 35 of title 42.~~

21 **20-3-7. Regulation of fishing in Great Salt Pond.**

22 ~~Notwithstanding the provisions of §§ 20-10-1 through 20-10-4, the electors of the town of~~
23 ~~New Shoreham may, in a town meeting called for that purpose, enact any ordinances to protect and~~
24 ~~to regulate the taking of shellfish and other fish in Great Salt Pond, and may impose penalties for~~
25 ~~violations of these ordinances not exceeding a fine of two hundred dollars (\$200) and three (3)~~
26 ~~months imprisonment for any one offense.~~

27 SECTION 12. This act shall take effect upon passage.

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LC001800
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO FISH AND WILDLIFE -- GENERAL PROVISIONS

1 This act would provide amendments to multiple sections of law related to the marine
2 fisheries council.

3 This act would take effect upon passage.

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LC001800
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From: rimarinefisheries-bounces@listserve.ri.gov on behalf of [RI Marine Fisheries](#)
To: rimarinefisheries@listserve.ri.gov
Subject: [Rimarinefisheries] Candidates Sought for Membership on Rhode Island Marine Fisheries Council
Date: Friday, March 10, 2023 11:46:09 AM

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Candidates Sought for Membership on Rhode Island Marine Fisheries Council

On behalf of Governor McKee, DEM Director Terrence Gray seeks candidates for two seats on the Rhode Island Marine Fisheries Council (RIMFC). One seat is currently vacant, and one will become vacant in the spring.

The RIMFC is composed of eight individuals and the DEM Director or their designee. The Council serves in an advisory capacity to the Director, providing recommendations on proposed marine fisheries regulatory issues and other matters pertaining to marine fisheries management in Rhode Island. Council members are chosen from among those with skill, knowledge, and experience in the commercial fishing industry, the recreational (private and for-hire) industry, and in the conservation and management of fisheries resources and/or marine biology. Members are appointed by the Governor with the advice and consent of the Rhode Island Senate. Members are appointed to four-year terms, are expected to attend up to eight meetings per year, and serve without compensation. Additional background information on the Council can be found on the DEM Division of Marine Fisheries website: <https://dem.ri.gov/natural-resources-bureau/marine-fisheries/about-council>.

Candidates are currently being sought for the following positions on the Council:

One representative with conservation, management, and/or marine biological expertise (previous incumbent, Chris Rein).

One representative of the recreational fishing industry (incumbent with term expiring, David Monti).

Anyone interested in serving on the Council is invited to submit a letter of interest and resume to: Molly Ogren, Chief of Program Development, DEM, 235 Promenade Street, Providence, RI 02908; Molly.Ogren@dem.ri.gov. In your letter, please indicate which seat(s) you are applying for. The deadline for submittals is **April 7, 2023**. All candidates will be forwarded to DEM Director Gray and Governor McKee for review and consideration.

Any questions regarding this notice may be directed to Molly Ogren at 401-222-2771 ext. 2774402.

Thank you

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