

## 1.1 PURPOSE

- A. The purpose of these rules and regulations is to supplement and simplify and/or clarify existing regulations in order to more efficiently manage the marine resources of Rhode Island.

## 1.2 AUTHORITY

- A. These rules and regulations are promulgated pursuant to Title 20, Chapters 42.17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35, Administrative Procedures Act of the General Laws of 1956, as amended.

## 1.3 APPLICATION

- A. 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

- A. 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## 1.5 SUPERSEDED RULES AND REGULATIONS

- A. 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rules and regulations, and any policies regarding the administration and enforcement of these regulations shall be superseded.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.

## **REGULATIONS**

### 1.16 Definition of Terms:

**Actively Fishing:** A license holder will be considered to have been actively fishing that license/endorsement if he or she demonstrates by dated transaction records, as verified by dealer reports to the Department, that he or she has fished at least ~~seventy-five (75)~~ **40** days in the preceding 2 calendar years, with some of the fishing activity occurring in each of the two years. Evidence as to days fished may be supplemented by one or more Vessel Trip Reports, which specifically reference the license holder's name and license number, and correspond to dated transaction records, where in the determination of the Department such dates are verified by dealer reports to the Department; where such reports verifiably reflect two or more calendar days at sea during a single trip, those days may be used to establish fishing activity. For the purpose of this definition the term "day" shall mean any 24-hour period or part thereof.

A license holder with a dockside sales endorsement who sells all of his or her lobster and/or crab landings dockside may utilize documentation other than dated transaction records to establish fishing activity, pursuant to the standards and criteria set forth in section 6.7-11(f) "*Commercial and Recreational Saltwater Fishing Licensing Regulations*".

**Actively Participating:** A crew member will be considered to have been actively participating in the fishery if he or she demonstrates via one or more affidavits that he or she has fished in the fishery with one or more licensed captains at least ~~seventy-five (75)~~ **40** in the preceding 2 calendar years, with some of the fishing activity occurring in each of the 2 years. Crew members may also demonstrate longevity in the fishery via one or more affidavits from licensed captains who they fished with in previous years.

**Application Deadline:** February 28, or the first business day following February 28 if that day falls on a Saturday, Sunday, or holiday. ~~See subsection 6.7-3(c) "Commercial and Recreational Saltwater Fishing Licensing Regulations" for additional clarifications.~~

**Angling: To fish recreationally using hook and line. (RIGL 20-2.2-3)**

**Approved waters** or **Approved growing areas:** **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.

**Aquaculturist:** A ~~individual, firm, partnership, association, academic institution, municipality, or corporation~~ **person** conducting commercial, experimental, or restoration aquaculture in Rhode Island.

**Authorized: Authorized by the Director.**

~~**Authorized person:** An Environmental Police Officer or any other representative of the Director authorized to administer or enforce these regulations.~~

**Commercial fisherman/fishermen: A person(s) who catches, harvests, or takes finfish, crustaceans, or shellfish from the marine waters for sale. (RIGL 20-2.1-3)**

**Commercial fishing: To take, harvest, hold, transport, or off-load marine species for sale or intended sale (RIGL 20-1-3)**

**Crew:** An ~~individual~~ **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".

**Day: A calendar day, or the 24 hour period of time beginning at 12:00AM and ending at 11:59:59PM.**

**Dealer:** A person, ~~partnership, firm, association, or corporation~~ licensed to barter or trade in marine species.

**Designated Temperature Control** ~~or Thermally Impacted Area~~ means an area designated by the Department in which aquaculturists must comply with more stringent temperature controls for harvested shellfish. These areas have been determined to be Winnapaug Pond, Quonochontaug Pond, Ninigret Pond, Potter Pond, Point Judith Pond, Island Park Cove (Spectacle Cove), Hog Island Cove and Great Salt Pond.

**Discards:** ~~fish, shellfish or crustaceans~~ **Marine species** that are discarded overboard by fishers because their possession is prohibited by regulations or for economic reasons.

**Dual federal permit/state license holder:** An ~~individual~~ **person** who holds both a federal limited access lobster permit and a State of RI commercial fishing license endorsed for American lobster.

**Fishery:** One or more stocks of ~~fish~~ **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.

**Harvest Level:** The amount of ~~fish, shellfish or crustaceans~~ **marine species** that may be legally harvested, possessed, and/or sold by a licensed fisher during a given period of time, usually a calendar day. That amount may vary according to the type of license held and/or the species involved.

**Land or landing:** To offload ~~seafood~~ marine products species ~~including, but not limited to, finfish, shellfish, and crustaceans,~~ harvested within or outside of Rhode Island waters for sale or intended sale, or to secure a vessel with ~~the seafood~~ marine products species on board to a shoreside facility where the marine products species may be offloaded for sale or intended sale. (RIGL 20-1-3)

**Licensed shellfish dealer:** Any person, ~~partnership, firm, association, or corporation~~ engaged in bartering or trading in shellfish taken, cultured, or possessed by licensed shellfishermen, licensed aquaculturists, or other licensed shellfish dealers, or their authorized agents, and licensed by the State of Rhode Island under the provisions of RIGL §§ 20-6-24, 21-14, 22-24, 20-2-28.1, 20-7-5.1, 20-4-1.1, or 21.17

**LTA transfer:** A change in ownership of a partial or entire Department or NOAA Fisheries-issued LTA by ~~an individual or Corporation~~ person.

**LTA transferor:** The license or permit holder from whom an LTA transfer is made.

**LTA transferee:** The ~~individual, corporations~~ person or fishing vessel to whom/which an LTA transfer is made.

**Marine species:** 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:** All tidal and territorial waters of the state out to three (3) nautical miles from the coastline. (RIGL 20-2.2-3)

**Open to the sea:** A coastal salt pond, ~~as described in this Section,~~ will be considered open to the sea if any flow of water connects coastal salt pond with the sea.

**Original lobster trap tags:** Those trap tags available for purchase to a RI commercial license holder or a Federal Limited Access Lobster Permit holder based on their lobster trap allocation, including an additional 10% over- allotment to allow for routine trap or tag losses.

**Overfishing/Overfished:** A rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis.

**Peck:** One fourth (1/4) of a bushel. (RIGL 20-1-3)

**Permanently disabled:** A person who is 100% permanently disabled in accordance with RIGL §20-2-31. (RIGL 20-2.2-3)

**Possession limit:** The maximum quantity of marine ~~product~~/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 ~~product~~/species may have been taken.

**Qualifying Period:** The ~~entire~~ three-year period from January 1, 2001 through December 31, 2003. For ~~individuals~~ persons meeting the standards governing material incapacitation, the qualifying period means the entire two-year period from January 1, 1999 through December 31, 2000.

**Resident:** ~~An individual~~ 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, automobile registration, voter registration card or a notarized statement from a City or Town Clerk.  
(RIGL 20-1-3)

**Shellfish harvest tagging area:** The ~~area of the~~ marine waters of the state where shellfish are harvested (refer to

<http://www.dem.ri.gov/programs/bnatres/fishwild/shelltag.htm>

**Transaction Records:** Invoices or similar records of the purchase of fish, shellfish, crustaceans or other ~~seafood~~ **marine products 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.

**Unreasonable Hardship:** Substantial economic loss which is unique to a ~~n individual~~ **person**, including but not limited to adverse medical or personal circumstances, and which has not been caused or exacerbated by prior actions of or inaction on the part of that **individual person**.

## **1.7 COMMONLY USED ACRONYMS**

**ACCSP:** Atlantic Coastal Cooperative Statistics Program

**CRMC:** Rhode Island Coastal Resources Management Council.

**DEM** or **Department:** Rhode Island Department of Environmental Management.

**DFW** or **Division:** The Division of Fish and Wildlife of the Department of Environmental Management.

**DOH:** Rhode Island Department of Health.

**LCMA:** Lobster Conservation Management Area.

**LCMA 2:** 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.

**LOA:** Letter of Authorization

**LTA:** Lobster trap allocation, either issued by the Department or NOAA Fisheries.

**NOAA: National Oceanic and Atmospheric Administration.**

**RIGL:** Rhode Island General Laws.

**RIMFC:** the Rhode Island Marine Fisheries Council. (RIGL 20-10-2)

**SAFIS:** Standard Atlantic Fisheries Information System.

**TAL:** Total allowable landings.

## **1.8 COMMON SPECIES**

**Alewife:** *Alosa pseudoharengus*.

**American eel:** *Anguilla rostrata*.

**American lobster:** *Homarus americanus*. (RIGL 20-1-3)

**American plaice (Dab):** *Hippoglossoides platessoides*.

**Atlantic cod:** *Gadus morhua*.

**Atlantic menhaden:** Brevoortia tyrannus.

**Atlantic herring:** Clupea harengus.

**Atlantic Horseshoe Crab:** Limulus polyphemus.

**Basking shark:** Cetorhinus maximus.

**Bay quahaug:** Mercenaria mercenaria. (RIGL 20-1-3)

**Bay scallop:** Argopecten irradians. (RIGL 20-1-3)

**Black sea bass:** Centropristes striatus.

**Blue crab:** Callinectes sapidus. (RIGL 20-1-3)

**Bluefish:** Pomatomus saltatrix.

**Blue mussel:** Mytilus edulis. (RIGL 20-1-3)

**Cancer Crab:** Cancer Borealis (Jonah Crab) or Cancer irroratus (Atlantic Rock Crab).

**Conch:** Channeled Whelk - Busycotypus canaliculatus; or Knobbed Whelk - Busycon carica. (RIGL 20-1-3)

**Dusky shark:** Carcharhinus obscurus.

**Goosefish (monkfish):** Lophius americanus.

**Green crab:** Carcinus maenas. (RIGL 20-1-3)

**Haddock:** Melanogrammus aeglefinus.

**Jonah crab:** Cancer borealis.

**Menhaden:** Brevoortia tyrannus.

**Ocean quahog:** Arctica islandica. (RIGL 20-1-3)

**Oyster:** American oyster, Crassostrea virginica or European oyster, Ostrea edulis. (RIGL 20-1-3)

**Pollock:** Pollachius virens.

**Rainbow smelt:** Osmerus mordax.

**Rock crab:** Cancer irroratus.

**Sand tiger shark:** Carcharias taurus.

**Scup:** Stenotomus chrysops.

**Sea scallop:** Placopecten magellanicus. (20-1-3)

**Smelt:** Osmerus mordax.

**Soft-shelled clam:** *Mya arenaria*. (RIGL 20-1-3)

**Spiny dogfish:** *Squalus acanthias*.

**Striped bass:** *Morone saxatilis*.

**Summer flounder (fluke):** *Paralichthys dentatus*.

**Surf clam or sea clam:** *Spisula solidissima*.

**Tautog (blackfish):** *Tautoga onitis*.

**White Shark:** *Archarodon carcharias*.

**Winter flounder:** *Pleuronectes americanus*.

**Witch flounder (gray sole):** *Glyptocephalus cynoglossus*.

**Yellowtail flounder:** *Limanda ferruginea*.