



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
DIVISION OF FISH & WILDLIFE / MARINE FISHERIES
Three Fort Wetherill Road
Jamestown, Rhode Island 02835



PUBLIC NOTICE CONCERNING PROPOSED REGULATORY CHANGES

Pursuant to the provisions of Chapters 42-17.1 of the General Laws of Rhode Island as amended, and in accordance with Chapter 42-35 “Administrative Procedures Act”, the Director of the Department of Environmental Management (DEM) proposes amendments to the **Rhode Island Marine Fisheries Regulations (RIMFR)** and gives notice of intent to afford interested parties the opportunity for public comment.

The following regulatory items will be presented for public comment:

1. Proposed amendments to **RIMFR - Commercial and Recreational Saltwater Fishing Licensing Regulations.**
2. Proposed amendments to **RIMFR Part 1 – Definitions.**

The **Workshop** will begin at **5:00PM** followed by the **Public Hearing** at **6:30PM** on **SEPTEMBER 19, 2016** and be held at Corless Auditorium, University of Rhode Island, Graduate School of Oceanography, South Ferry Road, Narragansett, RI.

The rooms are accessible to the disabled. Interpreter services for the deaf and hard of hearing will be provided if such services are requested at least three (3) business days prior to the hearing by contacting the RI Commission on the Deaf and Hard of Hearing at (401) 222-5300; or (401) 222-5301 (TTY); or <http://www.cdhh.ri.gov/>.

The Department has determined that small businesses may be adversely impacted by the proposed regulations. Small businesses which are either currently licensed, or in the future may seek a license to harvest, buy, sell, or produce seafood products, as well as the small businesses that provide services related to those engaged in such industries, are requested to comment on the proposed regulations on how such proposed action can be changed to minimize the impact on those small businesses affected.

Written comments concerning the proposed regulations may be submitted to Peter Duhamel, Division of Fish and Wildlife – Marine Fisheries office, 3 Fort Wetherill Road, Jamestown, RI 02835, until the close of the public comment period on September 28th. A copy of the proposed regulations is available for review from August 18th through September 28th at the Marine Fisheries offices, or may be requested by mail. Proposed regulation(s) have been filed with the Office of the Secretary of State’s website at <http://sos.ri.gov/ProposedRules/>, and are available on the DEM Marine Fisheries webpage at <http://www.dem.ri.gov/programs/fish-wildlife/marine-fisheries/rimfc/index.php>.

Jason McNamee,
Chief

Concise Explanatory Statement
Reason for Proposed Changes

Public Hearing
September 19, 2016

RHODE ISLAND MARINE FISHERIES REGULATIONS

Part 1 - Definitions

The proposed amendments to the RI Marine Fisheries regulations (RIMFR) is due to the following:

1. Proposed relocation of terms from Rhode Island Marine Fisheries regulations (RIMFR) “*Commercial and Recreational Saltwater Fishing*” to RIMFR “*Part 1 – Definitions*”, in order to house all RIMFR definitions in a single regulation
2. Proposed revisions to terms.



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

BUREAU OF NATURAL RESOURCES

DIVISION OF FISH AND WILDLIFE
DIVISION OF LAW ENFORCEMENT



RHODE ISLAND MARINE FISHERIES REGULATIONS

Part 1 Definitions

~~May 11, 2016~~

Proposed/annotated regulations

Public Hearing
September 19, 2016

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

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PURPOSE

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

AUTHORITY

These rules and regulations are promulgated pursuant to 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.

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.

SEVERABILITY

If any provision of these Rules and Regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

SUPERSEDED RULES AND REGULATIONS

On the effective date of these rules and regulations, all previous rules and regulations, and any policies regarding the administration and enforcement of 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

1.1 Definition of Terms:

ACCSP: Atlantic Coast Cooperative Statistics Program

Hearing Item #2a

Request for comments regarding “Actively Fishing” and “Actively Participating” Standard

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)~~ **XX** days in the preceding ~~two~~ **X** 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) XX~~ **X** in the preceding ~~two X~~ **X** calendar years, with some of the fishing activity occurring in each of the ~~two X~~ **X** 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.

Hearing Item #2b
Proposed modifications to terms

Adequately iced: 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: 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: 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.

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.~~

Air-assisted harvest: 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.

Alewife: *Alosa pseudoharengus*.

American eel: *Anguilla rostrata*.

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

American plaice (Dab): *Hippoglossoides platessoides*.

Anadromous fish: Any species of fish which ascends rivers or streams from the sea for breeding purposes (e.g. Alewife - *Alosa pseudoharengus*; Salmon - *Salmo salar*; Shad - *Alosa sapidissima*).

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

Approved: Approved by the Director.

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.

Aquaculture: The cultivation, rearing, or propagation of aquatic plants or animals, herein referred to as cultured crops, under natural or artificial conditions.

Aquaculture facility: Any properly permitted aquaculture operation, either in upland areas or the State's waters or submerged lands.

Aquaculture lease: The permitted area for which the CRMC issues a lease in which aquaculture can be conducted. Leases are discretionary and granted for the express purpose of allowing aquaculture activities on the State's submerged lands or in the water column. Certain types of permitted activities, such as experimental aquaculture operations, may not require a lease.

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

Atlantic cod: *Gadus morhua*.

Atlantic menhaden: *Brevoortia tyrannus*.

Atlantic herring: *Clupea harengus*.

Atlantic Horseshoe Crab: *Limulus polyphemus*.

Authorized: ~~Authorized by the Director.~~

Commented [DP(1)]: Used often

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

Commented [DP(2): See "Director"]

Bait gillnet: A gillnet not exceeding one hundred (100) feet nor exceeding a mesh size greater than three and three quarters inches (3 3/4") (stretched).

Basic Harvest and Gear Level: The harvest and/or gear restrictions governing each fishery endorsement category pertaining to Commercial Fishing Licenses, as well as Student Shellfish Licenses, and 65 and Over Shellfish Licenses.

Basking shark: *Cetorhinus maximus*.

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

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

Bay scallop dredging: The towing of a bay scallop dredge during the established bay scallop dredging season.

Bay scallop seed: 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.

Bill of Landing: An invoice which identifies a shipment of fish, shellfish or crustaceans as to seller, buyer, source, type, quantity and sale price.

Biosecurity Board: means the board within the CRMC established pursuant to RIGL Section 20-10-1.1 charged with assisting and advising the CRMC in carrying out its role under the provisions of RIGL Chapter 20-10.

Black sea bass: *Centropristes striatus*.

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

Bluefish: *Pomatomus saltatrix*.

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

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

Bycatch: 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: A standard U.S. bushel, 2150.4 cubic inches capacity. (RIGL 20-1-3)

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

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

Carapace: The un-segmented body shell of the American lobster.

Carapace length: 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: The loss of original lobster trap tags in excess of the 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.

Charter and party boat: Any vessel that carries passengers for hire to engage in fishing

Coastal salt pond: A pond abutting a barrier beach; some are periodically fresh; others are brackish or salt

Coastal salt ponds and/or river system channels: A natural or man-made, temporary or permanent waterway, allowing for the passage of water to and from any coastal salt pond and/or river system -- 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 – River 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 Pt. Judith Breachway to a line drawn from Strawberry Hill Pt. 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 Pt. Judith Pond)	South Kingstown	2,800'
Card	South Kingstown	200'
Trustom	South Kingstown	500'

Green Hill: Potato Pt. (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: The terminal section of a trawl net in which captured fish may accumulate, and is further defined as the last 45 rows of meshes in the terminal section of the net

Colregs demarcation line: 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: 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)

Commercial Fishing Vessel: Any vessel, boat or craft employed in the harvesting of marine species commercially, which shall first be declared with the Department.

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

Conch pot: Any pot designed or adapted principally for the catching or taking of conchs.

Conditionally approved waters: 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 RIGL §§ 20-8.1-3 and 20-8.1-4. Such classification may be subject to change as water quality conditions dictate. (RIGL 20-8.1-1)

Constantly tended: That a person setting a net shall remain within one hundred (100)

feet of the net at all times.

Container: Any bag, sack, tote, or other receptacle that contains shellfish to be held or transported.

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

Crab pot: Any pot designed or adapted principally for the catching or taking of crabs.

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*”.

CRMC: Rhode Island Coastal Resources Management Council.

Cultured crops: Aquatic or marine animals or plants: (i) that are in the location, water column or artificial conditions specified in a valid aquaculture permit issued pursuant to RIGL section 20-10-3 or that have been taken by the holder of such permit from the location, water column or artificial conditions specified in such permit, or (ii) 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 used in accordance with Rule 6.6 herein 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: 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.

Commented [DP(3)]: "Person" defined

DEM or Department: Rhode Island Department of Environmental Management.

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.

Commented [DP(4)]: Not used

Director: The Director of the Department of Environmental Management or his or her duly appointed agents. (20-2.1-3; 20-8.1-1; 20-10-2)

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

Commented [DP(5)]: Term defined

reasons.

Disposition: means the intended use or fate of the catch after leaving the dealer, such as sold for food, sold for bait, etc.

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

Drift gillnet: A floating gillnet that is floating unattached to the ocean bottom and not anchored, secured, or weighted to the ocean bottom.

Dockside sales endorsement: A notation on a license or landing permit that authorizes the holder to sell live lobsters and/or crabs directly to consumers at dockside.

DOH: Rhode Island Department of Health.

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

Dusky shark: *Carcharhinus obscurus*.

Eel trap/pot: Any pot or trap designed or adapted principally for the catching or taking of American eels.

Endorsement: 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: 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 (EEZ): Those waters three (3) to two hundred (200) miles (five to 322 kilometers) offshore which are under the direct jurisdiction of the federal government.

Exit/Entry Ratio: A formula established by regulation for a fishery or fisheries which identifies the number of new fishing licenses in each category that will be issued for each one that is retired and surrendered to the Department.

Family Member: A spouse, mother, father, brother, sister, child or grandchild of a licensed fisher. 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: 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.

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.

Fishery Performance: Properly documented commercial lobster fishing activity; namely pounds landed and traps fished in LCMA 2 during the applicable qualifying period.

Fishery Sector: One of three general fishery classifications, each encompassing two or more fishery endorsement categories: Shellfish (encompassing Quahaug, Soft-shell Clam, Whelk, and Other Shellfish); Finfish (encompassing Restricted and Non-Restricted Finfish); and Crustacean (encompassing Lobster and Non-Lobster Crustacean).

Fish trap: 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. (RIGL 20-5-1)

Fork length: The straight linear distance from the tip of the snout to the fork of the tail.

Full Harvest and Gear Level: The harvest and/or gear restrictions governing each fishery endorsement category pertaining to Principal Effort Licenses, and for all species pertaining to Multi-Purpose Licenses.

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

Gear: Any device or mechanism other than a vessel employed to catch fish, shellfish or crustaceans.

Gear Level: The amount, type, capacity and design of gear that may legally be employed in a given fishery.

Gillnet: A net used to catch fish by means of meshing or entanglement.

Goosefish (monkfish): *Lophius americanus*.

Grace period: Sixty (60) calendar days commencing on the day immediately following the application deadline, as defined herein. The grace period is applicable only to renewals of licenses from the immediately preceding year.

Grade: The landing condition of each marine species (e.g., whole, gutted).

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

Haddock: *Melanogrammus aeglefinus*.

Harbor of Refuge breakwater: The three sections of breakwater off of Pt. Judith.

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

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.

Hinge width: The distance between the convex apex of the right shell and the convex apex of the left shell.

Husbandry: Any activity related to the cultivation and management of shellfish crops, including but not limited to grading, sorting, cleaning, or planting.

Incapacity: Death of, or injury that renders an active licensed fisher 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.

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

Jonah crab: *Cancer borealis*.

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~~ **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)

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.

LCMA 2 Lobster Trap Allocation (LTA): The maximum number of lobster traps authorized to be fished by an individual permit or license holder in LCMA 2.

Licensed aquaculturist: Any person licensed by the State of Rhode Island to culture

Commented [DP(6): Will be reviewing use of term as used throughout RIMFR at later date

and possess shellfish, finfish, or aquatic plants pursuant to the provisions of RIGL Chapter 20-10 and § 20-2-27.2.

Licensed Captain: A person who holds or held a valid commercial fishing license issued by the Department.

Licensed shellfisherman: Any person licensed by the State of Rhode Island to take and possess shellfish from Rhode Island waters pursuant to the provisions of RIGL Chapter 20-6 and §§ 20-2-1, 20-2-20, or 20-2-28.1 and must possess the appropriate license when engaged in shellfishing activities.

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

License Year: January 1 of any given year through December 31 of the same year.

LOA: Letter of Authorization

Lobster pot: Any pot designed or adapted principally for the catching or taking of lobsters or Jonah Crab.

Lottery: Any of a variety of techniques to distribute licenses or permits when the demand for such licenses or permits exceeds the supply, such techniques having the common characteristics of being verifiably blind, random, fair and equitable.

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

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 the state/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)

Material Incapacitation: A significant and verifiable event, involving either a medical

condition or military service that reasonably prevented the license holder from meeting the actively fishing standard during the two calendar years preceding the sale of the license holder's vessel and gear. A short-term illness or injury, which cannot be reasonably construed to have prevented the license holder from meeting the actively fishing standard during the two-year period, does not constitute a material incapacitation.

Mechanical power: Any source of energy or power other than exclusively human power.

Mechanical refrigeration: 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 45°F or less.

Medical Hardship: An applicant's significant medical condition that prevents them from meeting licensing application requirements.

Menhaden: *Brevoortia tyrannus*.

Near shore (shoreward): That point or end of any net which is closest/nearest the coast or the closest coastal outcropping.

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

NOAA: National Oceanic and Atmospheric Administration.

Non-resident: A person who does not present proof of Rhode Island residency.

Non-resident landowner: 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. (RIGL 20-1-3)

Obstructing the free passage of fish: 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.

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

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

Offshore: That point of any net which is the greatest distance from the coast.

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.

Operational plan: A written plan filed with CRMC and approved by DEM prior to its implementation, that includes at a minimum: description of the design and activities of the culture facility, specific site and boundaries, types and locations of structures (rafts, pens, tanks, etc.), species to be cultured, source of these organisms, procedures to prevent contamination, program of sanitation and maintenance, description of the water source including details of water treatment, program to maintain water quality, maintenance of records, and how shell stock will be harvested.

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.**

Commented [DP(7)]: From Licensing Regs. Used in Sector Plans

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

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)**

Person: An individual, corporation, partnership, co-partnership, association, private or Municipal Corporation, or other legal entity firm. (RIGL 20-1-3; 20-8.1-1)

Place of Business: 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.

Point of Sale: The point in time and place where ownership of a given quantity of fish, shellfish, and/or crustaceans is transferred from a licensed fisher to a licensed dealer.

Pollock: *Pollachius virens*.

Polluted area: 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 RIGL § 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. (RIGL 20-8.1-1)

Port: Any town or city with a harbor and docking facilities where vessels can land.

Possession: 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: 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.

Possession of aquaculture crops: The exercise of dominion or control over cultured crops commencing at the time at which a decision is made not to return the crops to the aquaculture lease or facility from which they were taken. This decision must be made at the first practical opportunity, taking into consideration the management practices set forth in the approved operational plan.

Possession of wild stocks: The exercise of dominion or control over wild stocks commencing at the time at which a decision is made not to return the resource to the immediate vicinity from which it was taken. This decision must be made at the first practical opportunity.

Pot or Trap: 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: 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.

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.

Quart: One thirty-second (1/32) of a bushel.

Quota: The maximum weight or number of marine species which can legally be landed within a stated time period

Rainbow smelt: *Osmerus mordax*.

Replace: To substitute an equivalent vessel in place of a vessel, and does not permit the vessel being replaced to continue to be employed in the taking of summer flounder.

Reporting period: The period of time between the dates where dealers must provide reports on their activities (i.e. if the reports are required on Monday and Thursday, the reporting periods are Friday, Saturday, Sunday, and Monday for period one and

Tuesday, Wednesday, and Thursday for period two).

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)

Resubmerge: Is strictly limited to reintroduction of shell stock into approved waters following the removal of such stock from approved waters for husbandry purposes.

RIGL: Rhode Island General Laws.

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

Rock crab: *Cancer irroratus*.

Routine trap tag loss: The loss of lobster trap tags that does not exceed the 10% over-allotment trap tags issued for routine loss.

SAFIS: Standard Atlantic Fisheries Information System.

Sand tiger shark: *Carcharias taurus*.

Scup: *Stenotomus chrysops*.

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

Season: A period of time established by regulation during which management rules specific to that period are in effect.

Seine: Any net used to catch fish by encirclement or herding.

Shading: 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: 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 dredge: A mechanical device that is towed behind a fishing vessel and whose purpose is to collect shellfish from the sea floor.

Shellfish grounds: All land underlying waters within the rise and fall of the tide and the marine limits of the jurisdiction of the State. (RIGL 20-8.1-1)

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>)

Shellfish seed: For bay quahaug, a shell size less than 20 mm (0.78") longest axis length; for oysters, a shell size less than 32 mm (1.25") longest axis length; and, for blue mussels (*Mytilus edulis*) any mussel that settled during the current calendar year.

Shellfish Seeding: The introduction of shellfish spat or sub-legal juvenile animals into an area for purposes of increasing the population of shellfish in that area.

Sink gillnet: Any bottom tending gillnet 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 gillnet sinks to, on, or near the ocean bottom.

Spat: Newly settled post-metamorphic bivalve.

Spat collection: The use of artificial apparatus (spat collectors) or cultch to attract or capture induce settlement of larval shellfish.

Shoredigging: 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.

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*.

Take or **taking:** 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.

TAL: Total allowable landings.

Tautog (blackfish): *Tautoga onitis*.

Temperature control: The use of ice or mechanical refrigeration, which is capable of lowering the temperature of the shellstock and maintaining it at 50°F or less.

Tongs: 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: The straight linear distance from the tip of the snout to the end of the tail of a finfish species. All finfish species minimum size are measured as total length, except for coastal sharks, in which minimum size is measured by fork length.

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.

Transfer: To convey, pass, or remove something from one person, place, and/or vessel to another.

Trawl devices: Any type of fishing apparatus drawn behind a vessel which consists of otter doors and/or ground cables, ropes, and/or netting -- this will apply to, but not be limited to beam trawls, otter trawls, Scottish seines, and pair trawls.

Trip: 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: Data reported to the detail of each individual fishing voyage.

Unreasonable Hardship: Substantial economic loss which is unique to a ~~an individual person~~ **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~~ **person**.

V-Notched female American lobster: A V-notched female 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 1/8 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 1/4 inch (1/4") and not greater than 1/2 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: Every description of watercraft, other than a seaplane on the water, used, or capable of being used as a means of transportation on water.

Vessel Declaration: Declaration of a vessel as a commercial fishing vessel with the Department as required herein.

Vessel Upgrade: The acquisition by a licensed fisher of a vessel that is longer, of greater displacement, or increased horsepower relative to the vessel it is replacing.

Water-assisted harvest: 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: A calendar week, or the period beginning on Sunday at 12:00AM and ending on 11:59PM of the immediately following Saturday.

Weir: A barrier of interwoven twine, branches, or other material used to catch fish.

Wet storage: 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 sea-water; this includes flow-through systems.

White Shark: *Archarodon carcharias*.

Wild shellfish stock: 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: 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.

Winter flounder: *Pleuronectes americanus*.

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

Yellowtail flounder: *Limanda ferruginea*.

EFFECTIVE DATE

The foregoing rules and regulations, after due notice, are hereby adopted in accordance with the provisions of Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35, Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

Janet L. Coit, Director
Department of Environmental Management

Notice Given: ~~01/15/2016~~ 08/18/2016
Public Hearing: ~~02/16/2016~~ 09/19/2016
Filing date: ~~05/11/2016~~ XX/XX/2016
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