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 and 20-3 of the General Laws of Rhode Island as amended, and in accordance with the Administrative Procedures Act Chapter 42-35 of the General Laws, 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 hold a workshop and public hearing to afford interested parties the opportunity for public comment.

The following regulatory items will be presented for public comment:

1. Proposed amendments to **RIMFR-*Finfish*** regarding the following:

    a. **Recreational Summer Flounder**;
    b. **Recreational Tautog**;
    c. **Commercial Tautog**;
    d. **Recreational Scup**;
    e. **Recreational Black Sea Bass**;
    f. **Commercial Coastal Sharks**;
    g. **Skate**;
    h. **General editing**.

2. Proposed amendments to **RIMFR-*Striped Bass***, regarding the following:

    a. **Recreational Striped Bass**;
    b. **Commercial Striped Bass general category**;
    c. **Commercial Striped Bass floating fish trap**;
    d. **Commercial striped bass tags**;
    e. **Striped bass fin clipping provision** (in conjunction with hearing item # 3b.)

3. Proposed amendments **RIMFR-*Fish/Shellfish Dealer Regulations***, regarding the following:

    a. **General editing** for improved clarity and readability of the regulations;
    b. **Striped bass fin clipping provision**.

4. Proposed **REPEAL** of **RIMFR *Part 1 – Legislative Findings*** (in conjunction with hearing item # 5);

5. Proposed **ADOPTION** of **RIMFR *Part 1 – Definitions*** (in conjunction with hearing item # 4);

6. Proposed **REPEAL** of **RIMFR *Part 17 – Maps*.**

The **WORKSHOP** will be held at **6:00PM** on **Tuesday, February 9th** at the University of Rhode Island, Graduate School of Oceanography, Coastal Institute Building, Hazard Rooms, South Ferry Road, Narragansett, RI 02882.

The **PUBLIC HEARING** will be held at **6:00PM** on **Tuesday, February 16th** at the University of Rhode Island, Graduate School of Oceanography, Coastal Institute Building, Hazard Rooms, South Ferry Road, Narragansett, RI 02882.

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 no later than 12:00 Noon on February 16, 2016. A copy of the proposed regulations will be available for review from January 15 through February 16, 2016 at the Marine Fisheries offices, or by mail. A copy of the proposed regulation(s) has been filed with the Office of the Secretary of State's website at http://sos.ri.gov/ProposedRules/. Proposed annotated regulations are also available on the DEM Marine Fisheries webpage at http://www.dem.ri.gov/programs/bnatres/fishwild/pn021615.htm.

Jason McNamee,
Chief

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

BUREAU OF NATURAL RESOURCES
FISH AND WILDLIFE
&
LAW ENFORCEMENT

RHODE ISLAND MARINE FISHERIES STATUTES AND REGULATIONS

Part I
Legislative Findings

December 11, 2015

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.~~

~~ADMINISTRATIVE FINDINGS~~

~~Rules and regulations are based upon the need to modify existing regulations in accordance with Chapter 42-35, Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.~~

~~APPLICATION~~

~~The terms and provisions of these rules and regulations shall be liberally construed to permit the Department to effectuate the purposes of state law, goals, and policies.~~

~~SEVERABILITY~~

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

~~SUPERSEDED RULES AND REGULATIONS~~

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

PART I - LEGISLATIVE FINDINGS

1.1 Legislative Findings: The General Assembly finds that the animal life inhabiting the lands of the State, its lakes, ponds, streams, and rivers, and the marine waters within its territorial jurisdiction, are a precious, renewable, natural resource of the State which, through application of enlightened management techniques, can be developed, preserved, and maintained for the beauty and mystery that wild animals bring to our environment.

The General Assembly further finds that the management of fish and wildlife through the establishment of hunting and fishing seasons, the setting of size, catch, possession and bag limits, the regulation of the manner of hunting and fishing, and the establishment of conservation policies should be pursued utilizing modern scientific techniques, having regard for the fluctuations of species populations, the effect of management practices on fish and wildlife, and the conservation and perpetuation of all species of fish and wildlife. (RIGL 20-1-1)

1.2 Authority over Fish and Wildlife: The General Assembly hereby vests in the director of the department of environmental management authority and responsibility over the fish and wildlife of the State and over the fish, lobsters, shellfish and other biological resources of marine waters of the State. (RIGL 20-1-2)

1.3 Definition of Terms:

Air-assisted harvest: 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*

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*

Approved: approved by the Director

Approved waters or Approved growing areas: 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 Coastal Resources Management Council (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: the individual, firm, partnership, association, academic institution, municipality, or corporation conducting commercial, experimental, or restoration aquaculture in Rhode Island.~~

~~Area fished: this data element is only required for shellfish (i.e. quahogs, soft shelled clams, oysters, bay scallops, whelks) purchases. The data consists of the location where the shellfish were harvested in accordance with the RI shellfish harvest area codes.~~

~~Atlantic cod: *Gadus morhua*~~

~~Atlantic menhaden: *Brevoortia tyrannus*~~

~~Atlantic herring: *Clupea harengus*~~

~~Bait fish: any species of fish being pursued by bait gill netters, which includes, but may not be limited to, Alewife -- *Alosa pseudoharengus* and Menhaden -- *Brevoortia tyrannus*~~

~~Bait gill net: any gill net used in pursuit of bait species, i.e., menhaden, alewife, etc. There will be one (1) size of bait gill net permitted: Size No. 1. Lengths not to exceed one hundred (100) feet, no license required. The net must be marked with the owner/operator's name and address and be constantly tended.~~

~~Basking shark means that species of fish known as *Cetorhinus maximus*.~~

~~Bay quahaug: *Mercenaria mercenaria*~~

~~Bay scallop: *Argopecten irradians*~~

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

~~Black sea bass: *Centropristes striatus*~~

~~Blue crab: *Callinectes sapidus*~~

~~Bluefish: *Pomatomus saltatrix*~~

~~Blue mussel: *Mytilus edulis*~~

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

~~Bycatch: fish, shellfish, or crustaceans that are taken while a fisher is directing his/her effort toward the harvest of another fish, shellfish, or crustacean.~~

~~Bushel: a standard U.S. bushel, 2150.4 cubic inches capacity.~~

~~Catadromous fish: any species which lives in fresh water, but must go to sea for breeding purposes, e.g., the American eel -- *Anguilla rostrata*~~

~~Catastrophic trap tag loss: loss of lobster trap tags that exceed the 10% over-allotment trap tags issued for routine loss, based on the maximum number of lobster traps deployed.~~

~~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.~~

~~Commerce: the transfer of finfish, mollusks, or crustaceans transferred to a dealer, or offered for sale, barter, trade, shipment on consignment, or packed for shipment.~~

~~Conch: Channeled Whelk - *Busycotypus canaliculatus*; Knobbed Whelk - *Busycon carica*~~

~~Conch trap/pot: any pot or trap designed or adapted principally for the catching or taking of conchs.~~

~~Conditionally approved waters: any 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.~~

~~Constantly tended: A bait gill net shall be constantly tended if the person setting such net is within one hundred (100) feet of said gill net at all times when setting said gill net in any area closed to gill netting and/or all netting.~~

~~Crab trap/pot: any pot or trap designed or adapted principally for the catching or taking of crabs.~~

~~CRMC: R I Coastal Resources Management Council~~

~~Cultured shellfish crop: shellfish species: (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 Part 19.2 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 means calendar day, which means the period beginning at 12:00AM and ending on 12:00AM of the immediately following day.~~

~~Dealer: person who is licensed by the State of Rhode Island to sell, purchase, barter, and/or trade seafood.~~

~~DEM: RI Department of Environmental Management~~

~~Department: the State Department of Environmental Management~~

~~Director: the Director of the Department of Environmental Management or his or her duly appointed agents~~

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

~~Division: the Division of Fish and Wildlife of the Department of Environmental Management so-called in the RIGL's.~~

~~DOH: the RI Department of Health~~

~~Dusky shark means that species of fish known as *Carcharhinus obscurus.*~~

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

~~Fish trap: a floating trap, pound, stub, or any other equivalent or thing set on, in, or anchored to the bottom or shore for extended periods of time, for the purpose of catching fish -- (Each fish trap is required to be individually licensed by the Department of Environmental Management)~~

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

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

~~Gill net--trammel net: a net used to catch fish by means of meshing or entanglement~~

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

~~Grade: landing condition of each marine species such as whole, gutted, etc.~~

~~Green crab: *Carcinus maenas*~~

~~Haddock: *Melanogrammus aeglefinus*~~

~~Harbor of Refuge breakwater: the three outermost sections of breakwater off of Pt. Judith.~~

~~Hinge width: the distance between the convex apex of the right shell and the convex apex of the left shell.~~
~~Jonah crab: *Cancer borealis*~~

~~Land or landing: to enter port with fish on board, to begin offloading fish, or to offload fish.~~

~~Licensed aquaculturist: any person licensed by the State of Rhode Island to culture and possess shellfish, finfish, or aquatic plants pursuant to the provisions of RIGL Chapter 20-10 and § 20-2-27.2~~

~~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~~

~~Lobster trap/pot: any pot or trap designed or adapted principally for the catching or taking of lobsters.~~

~~Making way: a vessel which is: making headway, or otherwise in motion; not at anchor; made fast to the shore, aground or adrift.~~

~~Market: category used to sort landed marine species at the dealer, usually size related.~~

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

~~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.~~

~~Non-Resident landowner: a nonresident 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.~~

~~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*~~

~~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, approved by DEM and DOH 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~~

~~Oyster: *Crassostrea virginica, Ostrea edulis*~~

~~Peck: One fourth (1/4) of a bushel~~
~~Person: an individual, corporation, partnership, or other legal entity.~~

~~Pollock: *Pollachius virens*~~

~~Polluted area: any 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~~

~~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 means 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.~~

~~Pot/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.~~

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

~~Quota: the maximum weight or number of fish which can legally be landed within a stated time period. A quota can apply to an entire fishery or to an individual vessel or fisherman.~~

~~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 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.~~

~~Rock crab: *Cancer irroratus*~~

~~Routine trap tag loss: loss of lobster trap tags that does not exceed the 10% over-allotment trap tags issued for routine loss, based on the maximum number of lobster traps deployed.~~

~~Sand tiger shark means that species of fish known as *Carcharias taurus.*~~

~~Scup: *Stenotomus chrysops*~~

~~Sea scallops: *Placopecten magellanicus*~~

~~Seines: any net used to catch fish by encirclement or herding including haul seines, beach seines, and purse seines; haul seines and beach seines may not exceed six hundred (600) feet in length~~

~~Shellfish: molluscan species growing in Rhode Island tidal waters, including, but not limited to, bay quahaug (*Mercenaria mercenaria*), ocean quahaug (*Arctica islandica*), blue mussel (*Mytilus edulis*), oyster (*Crassostrea virginica and Ostrea edulis*), soft shell clam (*Mya arenaria*), bay scallop (*Argopectans irradians*), surf or sea clam (*Spisula solidissima*)~~

~~Shellfish grounds: all land underlying waters within the rise and fall of the tide and the marine limits of the jurisdiction of the State.~~

~~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*~~

~~Spiny dogfish: *Squalus acanthias*~~

~~Stake traps: nets and/or netting, set on stakes or poles, for the purpose of catching fish~~

~~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~~

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

~~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: 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 size are measured as total length, except for coastal sharks, in which minimum size in measured by fork length.~~

~~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.~~

~~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~~

~~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 means calendar week, which means 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 means that species of fish known as *Carcharodon 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~~

~~Winter flounder (Pleuronectes americanus), - common names -- blackback flounder, flatfish~~

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

~~Yellowtail flounder: *Limanda ferruginea*~~

~~1.4 Rules and Regulations: The Director is authorized to promulgate, adopt, and enforce any and all rules and regulations deemed necessary to carry out duties and responsibilities under this Title. (RIGL 20-1-4)~~

~~1.5 General Enforcement Powers: The Director and the Director's authorized agents, employees, and designees shall protect the wild birds, wild animals, fisheries, and shell fisheries throughout the State and shall administer and enforce the provisions of this Title and the rules and regulations adopted pursuant to this title and shall prosecute violations of these laws and rules and regulations. (RIGL 20-1-5)~~

~~1.6 Appointment and Delegation of Powers to Conservation Officers: The Director shall appoint any number of conservation officers as he or she may deem necessary for the detection and prosecution of any violations of the laws of this State enumerated in § 20-1-8. The Director may delegate any and all of his or her powers and duties to each of these conservation officers who shall serve at the Director's pleasure. (RIGL 20-1-6)~~

~~1.7 Deputy Wardens: The Director may appoint such a number of deputy wardens as he or she may deem necessary. The deputy wardens shall not be authorized to carry pistols or revolvers but shall be authorized to detect violators of the laws of this State enumerated in § 20-1-8. Such detection shall be reported to the Director, who may proceed with the prosecution. Deputy wardens shall be given an identification badge by the Director and shall serve at the Director's pleasure. (RIGL 20-1-7)~~

~~1.8 Enforcement Powers of Director and Conservation Officers: (A) The Director and each conservation officer shall have the power:~~

~~(1) to enforce all laws, rules, and regulations of this State pertaining to:~~
~~(i) fish, wildlife, and all vertebrates, invertebrates, and plants;~~
~~(ii) fresh water wetlands, dams, and resources;~~

~~(iii) areas and activities subject to the jurisdiction of the Coastal Resources Management Council;~~
~~(iv) state parks, reservations, Management Areas, hatcheries and game preserves, and any law of the State within such State parks, reservations, Management Areas, and game preserves;~~
~~(v) solid and hazardous waste transportation, storage and disposal and any other laws of the State regarding solid and/or hazardous wastes;~~
~~(vi) boating safety, water safety, and drowning prevention;~~
~~(vii) water and air pollution and open burning;~~
~~(viii) firearms;~~
~~(ix) littering;~~
~~(x) trees and forests, forestry, and protection of forests from fire hazards and trespass;~~
~~(xi) agriculture, farmland, and pest control.~~

~~(2) to issue summonses and to execute all warrants and search warrants for the violation of the laws, rules and regulations enumerated in subdivision (a)(1) or (a)(9) of this section;~~

~~(3) to serve subpoenas issued for the trial or hearing of all offenses against the law, rules and regulations enumerated in subsection (a)(1) or (a)(9) of this section;~~

~~(4) to arrest without a warrant any person found violating any law, rule, or regulation enumerated in subdivision (a)(1), take that person before a court of competent jurisdiction and detain that person in custody at the expense of the State until arraignment, except when a summons can be issued in accordance with § 12-7-11;~~

~~(5) to seize and take possession of all fish, shellfish, crustaceans, marine mammals, amphibians, reptiles, birds, and mammals in possession or under control of any person or which have been shipped or are about to be shipped, at any time, in any manner, or for any purpose contrary to the laws of this State, and dispose of them at the discretion of the Director;~~

~~(6) to seize all fishing tackle, firearms, shooting and hunting paraphernalia, hunting, fishing, or trapping licenses, traps, decoys, tongs, bullrakes, dredges or other implements or appliances used in violation of any law, rule, or regulation relating to fish, shellfish, crustaceans, marine mammals, amphibians, reptiles, birds, and mammals; or any equipment, materials, tools, implements, samples of substances or any other item used in violations of any other law, rule, or regulation enumerated in subdivision (a)(9) when making an arrest as found in the execution of a search warrant, and hold the seized item or items at owner's expense until the fine and costs imposed for the violation have been paid in full;~~

~~(7) (i) to go on board any boat or vessel engaged or believed to be engaged in fishing and examine any fishing, shellfish, scallop, lobster, multipurpose, or other license issued under this title.~~

~~(ii) to go on board any boat or vessel engaged or believed to be engaged in fishing and to inspect that boat or vessel for compliance with the provisions of this title and any rules relative to the taking of fish, shellfish, crustaceans marine mammals, amphibians, and reptiles. In the absence of probable cause to believe that a crime relative to the taking of such marine species has been, or is being, committed, any evidence obtained as the result of a boarding (other than for the purpose of examining a license) or of an inspection, may not be used in a criminal prosecution.~~

~~(8) to carry firearms or other weapons, concealed or otherwise, in the course of and in performance of the duties of office;~~

~~(9) and to arrest without a warrant, to execute all warrants and search warrants, and to make and execute complaints within any district to the justice or clerk of the district court without recognizance or surety, against any person for the following criminal offenses:~~

~~(i) assault;~~
~~(ii) assault with a dangerous weapon;~~
~~(iii) larceny;~~
~~(iv) vandalism;~~
~~(v) obstructing officer in execution of duty.~~

~~(B) Conservation Officers shall be deemed "officer" within the meaning of § 11-32-1.~~

~~(C) it shall be a misdemeanor punishable by a fine of not more than five hundred dollars ($500) or imprisonment for not more than thirty (30) days, or both, for any person to refuse to move or to stop on an oral command or order of a Conservation Officer, when the officer is acting in the performance of his or her duties. (RIGL 20-1-8)~~

~~1.9 Procedures for Seizure and Forfeiture:~~

~~(A) Any vessel, boat, fishing tackle, guns, shooting and hunting paraphernalia, traps, decoys, or any other implements, appliances or equipment used in violation of any law, rule or regulation relating to fish and wildlife which, by provision of any Section of this Title, is subject to forfeiture to the State, shall be seized pursuant to § 20-1-8(a)(6) and forfeited under the provisions of this Section.~~

~~(B) The Attorney General shall proceed pursuant to §§ 12-21-23 to 12-21-32, to show cause why the vessel, boat, fishing tackle, guns, shooting, and hunting paraphernalia, traps, decoys, and any other implements, appliances or equipment used in the knowing and willful violation of any law, rule, or regulation relating to fish and wildlife which, by provision of any Section this Title, is subject to forfeiture to the State, may be forfeited to the use of or the sale of the Department on producing due proof that the vessel, fishing tackle, guns, shooting and hunting paraphernalia, traps, decoys, or any other implements, appliances or equipment was used in such violation.~~

~~(C) Whenever property is forfeited under this Section, and the specific provision of this Title requiring forfeiture for a particular offense, the Department may:~~

~~(1) retain the property for official use;~~
~~(2) sell any forfeited property which is not required by this Title to be destroyed and~~

which is not harmful to the public; but the proceeds of this sale, after first deducting the amount sufficient for all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody and advertising and court costs, shall be paid to the General Treasurer for the use of the State. (RIGL 20-1-8.1)

1.10 Operation of Patrol Boats: The General Assembly shall annually appropriate any sum as it may deem necessary to patrol and police the shellfish grounds, check licenses of fishermen, protect the scallop areas, collect animal specimens and execute special work incidental to the lobster and other shellfisheries and enforce the provisions of Chapter 22 of Title 46, this sum to be expended under the direction of the Director of the Department of Environmental Management for the purpose of maintaining and operating patrol boats and their crews. The Controller is hereby authorized and directed to draw orders upon the General Treasurer for the payment of such sum or sums as may be required from time to time upon the receipt by the controller of proper vouchers approved by the Director. (RIGL 20-1-9)

1.11 Obligation of Vessels to Heave to on Command of a Patrol Boat:

(A) Every person operating a boat or vessel in Rhode Island territorial waters who fails to immediately heave-to upon a shouted command or a flare fired into the air from a marine patrol boat operated by the Department of Environmental Management and carrying the identification "Department of Environmental Management, State of Rhode Island" shall be punished by a fine of not less than twenty-five dollars ($25) nor more than five hundred dollars ($500).

(B) Every person who shall, while aboard a boat or vessel in Rhode Island territorial waters which has been ordered to heave to upon shouted command or a flare fired into the air from a marine patrol boat operated by the Department of Environmental Management and carrying the identification "Department of Environmental Management, State of Rhode Island" dumps, destroys, or throws anything from the vessel or boat shall be punished by a fine of not less than twenty-five dollars ($25) nor more than five hundred dollars ($500).

(RIGL 20-1-10)

1.12 Prosecution of Violations: It shall be the duty of the Attorney General to conduct the prosecution of all court proceedings brought by the Director as requested by the Director. (RIGL 20-1-11)

1.13 Fixing of Seasons and Bag Limits:

(A) The Director is hereby authorized to adopt regulations fixing seasons, bag limits, size limits, possession limits, and methods of taking on any species of fish, game, bird, or other wild animal occurring within the State, other than marine species regulated by the Marine Fisheries Council.

(1) These regulations may prohibit the taking, holding, or possession of any species, prohibit the taking, molestation, or disturbance in any way of nesting, breeding or feeding sites of any species and/or prohibit, control or regulate any commercial use, importation into the State or exportation from the State

~~of any species.~~

~~(2) Such regulations may be of statewide applicability or may be applicable in any specified locality or localities within the State when the Director shall find, after investigation, that the regulations are appropriate.~~

~~(B) Any person who violates any provision of chapter or any rule or regulation made under the provisions of this chapter shall be guilty of a violation and shall be subject to a fine of one hundred dollars ($100) for each violation.~~
~~(C) Notwithstanding any inconsistent provision of law, the district court shall have exclusive jurisdiction to hear and determine all violations specified in this chapter and shall be afforded those options as provided for in § 46-22-19.2.~~
~~(D) The regulations shall be adopted only after the holding of a public hearing subject to the provisions of the Administrative Procedures Act, Chapter 35 of Title 42. (RIGL 20-1-12)~~

~~1.14 Publication and Effective Date of Seasons and Bag Limits: Notice of the Director's intention to adopt regulations pursuant to § 20-1-12, and the holding of a public hearing of these regulations, shall be published in at least one newspaper of general statewide circulation, not less than twenty (20) days prior to the date of the public hearing. These regulations shall remain in effect not longer than one (1) year following the date of their effectiveness. (RIGL 20-1-13)~~

~~1.15 Entry of Private Property: The Director of Environmental Management and each duly authorized employee of that Department may, in the discharge of his or her duties under this Title, enter upon and pass over private property without liability for trespass. If feasible, the employee shall give notice to the property owner. (RIGL 20-1-15)~~

~~1.16 Penalty for Violations: 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) or imprisonment for up to ninety (90) days, or both. (RIGL 20-1-16)~~

~~1.17 Cooperation with Other States: The Director may cooperate with the fish and wildlife commissioners or other similar bodies or agencies of other states in carrying out the purpose of this Title. (RIGL 20-1-17)~~

~~1.18 Collector's Permits: Notwithstanding any other restriction or prohibition set forth in this Title, the Director is authorized to issue special permits for the taking, handling, and/or possession of any species of wild animal, of any size, age and numbers as may be appropriate, to persons for the purpose of carrying out scientific experiments and cultivation projects for which the Director has responsibility. The Director may require an applicant to provide any information as that the Director deems necessary to ascertain that the person is involved in a bona fide experiment or project. Failure to abide by the provisions of any permit or failure to report any information required by the Director shall be cause for suspension or revocation of permit. (RIGL 20-1-18)~~

~~1.19 Powers of Enforcement of Officers in Waters Between States: If and when the states of New York and Connecticut and the Commonwealth of Massachusetts, or any of them, shall enact similar laws for the arrest and punishment for violations of the conservation or fish laws of this State or the state so enacting the similar law, committed or attempted to be committed by any person or persons fishing in waters lying between states, any wildlife protector, fish warden, or other person of either state who is authorized to make arrests for violations of the conservation or fish laws of state, shall have power and authority to make arrest on any part of waters between states or the shores thereof and to take any person or persons so arrested for trial to the state in which the violation was committed and there to prosecute the person or persons according to the laws of that state. (RIGL 20-1-19)~~

~~1.20 Power to Require Reports: When deemed necessary to carry out the Director's duties under this Title, the Director may require that reports detailing hunt, catch, effort, and other data be provided to the Director by any person who hunts or fishes in this State or who lands his or her catch in this State. These individual reports and other data shall remain confidential and may only be disseminated to the public or persons outside the Department in a statistical format. (RIGL 20-1-20) (Penalty 20-1-16 - Part 1.16 and 20-4-6 - Part 11.11)~~

~~1.21 Severability: The provisions of this Title shall be interpreted and construed liberally in aid of its declared purpose. If any provision of any of the Chapters in this Title or any rule or regulation issued is held invalid by a court of competent jurisdiction, the remainder of the Title and rules and regulations shall not be affected, but shall be construed in such a way as to give all the provisions of this Title full and valid effect to the fullest extent consistent with the law. The invalidity of any Section or parts of any Section shall not affect the validity of the remainder of this Title.~~
~~(RIGL 20-1-22)~~

~~1.22 General powers:~~

~~(a) The following fees shall be established and paid to the Department of Environmental Management for issuance of the following special permits:~~

~~Ferret Permit~~	~~$10.00~~
~~Scientific Collector's Permit~~	~~$25.00~~

~~(b) Any fees collected under authority of this section shall be deposited into restricted receipt accounts established by this Title, as appropriate to the type of special permit issued, and shall be used only for the authorized purposes of such restricted receipts account. The accounts include, but are not limited to: fishing license account, hunting license account, wildlife fund.~~

~~(c) The Division of Fish and Wildlife shall be authorized to establish fees for reference, educational, and souvenir-type materials provided upon request to interested parties. Such materials include, but are not limited to: surveys, guides, maps, posters, reference, and educational booklets and materials, and articles of clothing. No fee~~

~~shall be required for any materials describing or implementing any licensing or regulatory authority of the Division. Any fees collected under authority of this section shall be deposited as general revenues. (RIGL 20-1-21)~~

~~Rule 8. 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: 10/16/2015~~
~~Public Hearing: 11/16/2015~~
~~Filing date: 12/11/2015~~
~~Effective date: 01/01/2016~~

~~ERLID # 8218~~

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 I
DEFINITIONS

Summary of Changes

Proposed ADOPTION of Regulation

In conjunction with proposed REPEAL of "RIMFR – Part I – Legislative Findings"

Public hearing
February 16, 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.

NOTE: This regulation is proposed for ADOPTION as a new regulation. However, the majority of the language contained herein is not in actuality proposed new language, but has only been re-located to this proposed new regulation as part of a regulation re-structuring effort designed to improve the readability and clarity of Marine Fisheries regulations.

In many instances the language is proposed to be revised as it is re-located. This *Summary of Proposed Changes* provides annotated changes to assist the reader with understanding the proposed changes

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 ~~Part I~~ **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.

~~1.1 Legislative Findings -- The General Assembly finds that the animal life inhabiting the lands of the State, its lakes, ponds, streams, and rivers, and the marine waters within its territorial jurisdiction, are a precious, renewable, natural resource of the State which, through application of enlightened management techniques, can be~~

~~developed, preserved, and maintained for the beauty and mystery that wild animals bring to our environment.~~

~~The General Assembly further finds that the management of fish and wildlife through the establishment of hunting and fishing seasons, the setting of size, catch, possession and bag limits, the regulation of the manner of hunting and fishing, and the establishment of conservation policies should be pursued utilizing modern scientific techniques, having regard for the fluctuations of species populations, the effect of man-agement practices on fish and wildlife, and the conservation and perpetuation of all species of fish and wildlife. (RIGL 20-1-1)~~

~~1.2 Authority over Fish and Wildlife -- The General Assembly hereby vests in the director of the department of environmental management authority and responsibility over the fish and wildlife of the State and over the fish, lobsters, shellfish and other biological resources of marine waters of the State. (RIGL 20-1-2)~~

Commented [DP(1]: Non-regulatory statutory language

REGULATIONS

1.1 Definition of Terms:

Actively Fishing means 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) days in the preceding two 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*".

Commented [DP(2]: From Licensing regs

Actively Participating means 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) days in the preceding two calendar years, with some of the fishing activity occurring in each of the two 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.

Commented [DP(3]: From Licensing regs

Adequately iced means that the amount and application of the ice is 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.

Commented [DP(4]: From Aqua Regs

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.

Commented [DP(5]: From Licensing regs

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.

Commented [DP(6]: From Licensing regs

Application Deadline means 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.

Commented [DP(7]: From Licensing regs

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.

Alewife means *Alosa pseudoharengus.*

American eel means *Anguilla rostrata.*

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

American plaice (Dab) means *Hippoglossoides platessoides.*

Anadromous fish means 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.*

Approved means approved by the Director.

Approved waters or **Approved growing areas** means 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 means the cultivation, rearing, or propagation of aquatic plants or animals, herein referred to as cultured crops, under natural or artificial conditions.

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

Aquaculture lease means the permitted area for which the Coastal Resources Management Council (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 means the individual, firm, partnership, association, academic institution, municipality, or corporation conducting commercial, experimental, or restoration aquaculture in Rhode Island.

~~Area fished: this data element is only required for shellfish (i.e. quahogs, soft shelled clams, oysters, bay scallops, whelks) purchases. The data consists of the location where the shellfish were harvested in accordance with the RI shellfish harvest area codes.~~

Commented [DP(8]: Not an accurate term. Refers to "Shellfish Harvest Tagging Area" defined herein

Atlantic cod means *Gadus morhua.*

Atlantic menhaden means *Brevoortia tyrannus.*

Atlantic herring means *Clupea harengus.*

Atlantic Horseshoe Crab means *Limulus polyphemus*.

Commented [DP(9]: From Dealer and Crustacean regs

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

Commented [DP(10]: Consistent language

~~**Bait fish** means any species of fish being pursued by bait a gillnetter, which includes, but may not be limited to, Alewife – Alosa pseudoharengus and (menhaden) - *Brevoortia tyrannus.*~~

Commented [DP(11]: Term inaccurate and confusing. Delete, not needed

Bait gillnet means a~~ny~~ gillnet ~~used in pursuit of bait species (e.g., menhaden, alewife, etc.). There will be one (1) size of bait gillnet permitted: Size No. 1. Lengths not to exceed one hundred (100) feet, no license required. The net must be marked with the owner/operator's name and address and be constantly tended. The total length of a bait gillnet may~~ not exceed**ing** one hundred (100) feet nor ~~may the~~ **exceeds a** mesh size ~~be~~ greater than three and three quarters inches (3 3/4") (stretched). ~~Anyone setting a Size No. 1 gillnet for bait must be within one hundred (100) feet of the net at all times.~~

Commented [DP(12]: Possession of alewife prohibited

Commented [DP(13]: Duplicate. Used wording from Gillnet regs in sentence below

Commented [DP(14]: Duplicate. Covered in Equipment regs

Commented [DP(15]: Better language taken from Gillnet regs to replace sentence deleted above

Commented [DP(16]: Duplicate. Regulation, not definition. Covered in Equipment Regs

Basic Harvest and Gear Level means 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.

Commented [DP(17]: From Licensing regs

Basking shark means that species of fish known as *Cetorhinus maximus.*

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

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

Bay scallop dredging means 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.

Commented [DP(18]: From SF regs

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

Commented [DP(19]: From Licensing regs

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.

Commented [DP(20]: Re-located from SF and Aquaculture Regs

Black sea bass means *Centropristes striatus.*

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

Bluefish means *Pomatomus saltatrix.*

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

Bottom tending gillnet means a gillnet, anchored or otherwise, which is fished on or near the bottom or within the lower one third (1/3) of the water column.

Commented [DP(21]: Not new. From Gillnet regs section 13.3.4

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 ~~fish,~~ **marine species** which have been harvested, but which are not sold or kept for personal use~~. It~~ **, and** includes ~~fish~~ **species** that are discarded ~~for either economic or regulatory reasons~~ while a fisher is directing his/her effort toward the harvest of another ~~fish, shellfish, or crustacean~~ **marine species**.

Commented [DP(22]: Term defined in both Licensing regs and Part I. Inconsistency between terms. Revised to correct inconsistency

Bushel means a standard U.S. bushel, 2150.4 cubic inches capacity. (RIGL 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 is 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.

Commented [DP(23]: From Crust regs

Catastrophic trap tag loss means the ~~loss of lobster trap tags that exceed the 10% over-allotment trap tags issued for routine loss, based on the maximum number of lobster traps deployed~~ 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.

Commented [DP(24]: From Crust regs. Updated

Charter and party boat means any vessel that carries passengers for hire to engage in fishing

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

Coastal salt ponds and/or river system channels means 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 means 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 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.

~~**Commerce** means the transfer of finfish, mollusks, or crustaceans transferred to a dealer, or offered for sale, barter, trade, shipment on consignment, or packed for shipment.~~

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.

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

Conch trap/pot means any pot or trap designed or adapted principally for the catching or taking of conchs.

Conditionally approved waters means any 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 means ~~a bait gillnet shall be constantly tended if the~~ **that a** person setting ~~such~~ **a bait** net is within one hundred (100) feet of ~~said gill~~ **the** net at all times ~~when setting said gillnet in any area closed to gill netting and/or all netting~~.

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

Commented [DP(25]: Not used

Commented [DP(26]: From Licensing regs

Commented [DP(27]: Any bait net, not just gillnets

Commented [DP(28]: Refer to Gillnet regs section 13.5. Makes no mention of closed areas. If gillnetting for bait, must be constantly tended

Commented [DP(29]: From Aqua regs

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

Commented [DP(30]: From Licensing regs

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

Crew means an individual, 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~~se~~ ***"Commercial and Recreational Saltwater Fishing Licensing*** *Regulations*".

Commented [DP(31]: From Licensing regs

CRMC means the Rhode Island Coastal Resources Management Council.

Cultured crops mean 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.

Commented [DP(32]: From Aqua regs

~~**Cultured shellfish crop** means shellfish species: (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 Part 19.2 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.~~

Commented [DP(33]: Duplicate with "Cultured crops" above

Dealer means a person ~~who is licensed by the State of Rhode Island to sell, purchase, barter, and/or trade seafood~~ means a person, partnership, firm, association, or corporation licensed to barter or trade in marine species.

Commented [DP(34]: Omitted language from Part I. Kept language from Licensing regs

DEM or **Department** means the Rhode Island Department of Environmental Management

~~**Designated Temperature Control Areas** means an area designated by the Department in which harvesters must comply with more stringent temperature controls for harvested quahogs and oysters. These areas have been determined to have a higher risk of Vibrio illness associated with consumption of wild quahogs and oysters due to warm temperatures or a history of illness. These areas include Winnapaug Pond~~

~~(6W), Quonochontaug Pond (6Q), Ninigret Pond 6(N), Potter Pond (6P), and Point Judith Pond (6P).~~

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.

Director means 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 means fish, shellfish or crustaceans 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 the catch after leaving the dealer, such as sold for food, sold for bait, etc.

DFW or **Division** means the Division of Fish and Wildlife of the Department of Environmental Management ~~so-called in the RIGL's~~.

Dockside sales endorsement means 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 means the RI Department of Health.

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

Dusky shark means ~~that species of fish known as~~ *Carcharhinus obscurus.*

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 (EEZ) means those waters three (3) to two hundred (200)

Commented [DP(35]: Deleted in favor of current definition in Aquaculture Regs "Designated Temperature Control or Thermally Impacted Area"

Commented [DP(36]: From Aqua regs

Commented [DP(37]: From Licensing regs

Commented [DP(38]: From Licensing regs

Commented [DP(39]: From Crust regs

Commented [DP(40]: From Licensing regs

Commented [DP(41]: From Licensing regs

miles (five to 322 kilometers) offshore which are under the direct jurisdiction of the federal government.

Commented [DP(42]: From Crust regs

Exit/Entry Ratio means 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 means the 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.

Commented [DP(43]: From Licensing regs

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.

Commented [DP(44]: From Licensing regs

Fishery means one or more stocks of fish 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.

Commented [DP(45]: From Crust and Licensing regs

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

Commented [DP(46]: From Crust regs

Fishery Sector means 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).

Commented [DP(47]: From Licensing regs

Fish trap means a ~~floating trap, pound, stub, or any other equivalent or thing set on, in, or anchored to the bottom or shore for extended periods of time, for the purpose of catching fish – (each fish trap is required to be individually licensed by the Department of Environmental Management)~~ 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)**

Commented [DP(48]: Omitted language from Part I; kept language from Licensing regs

Floating gillnet means a gillnet set in which any portion of the gillnet is exposed at the surface.

Commented [DP(49]: From Gillnet regs section 13.3.4. Not new

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

Full Harvest and Gear Level means 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 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 fish, shellfish or crustaceans.

Gear Level means ~~as set by regulation,~~ the amount, type capacity and design of gear that may legally be employed in a given fishery.

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

Goosefish (monkfish) means *Lophius americanus.*

Grace period means 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 means landing condition of each marine species such as whole, gutted, etc.

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

Haddock means *Melanogrammus aeglefinus.*

Harbor of Refuge breakwater means the three ~~outermost~~ sections of breakwater off of Pt. Judith.

Harvest means ~~the act of removing any shellfish for the purpose of human consumption. Harvest commences when the first shellfish is no longer submerged.~~ the act of removing ~~shellstock~~ **a marine species** with the intention of not returning **it** to the water ~~after husbandry practices. Harvest commences when the first shellfish not returned to the water is removed from the water on any given day, or is exposed by the receding tide~~.

Harvest Level means ~~As set by regulation,~~ the amount of fish, shellfish or crustaceans 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 means the distance between the convex apex of the right shell and the convex apex of the left shell.

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

Commented [DP(50]: From Licensing regs

Commented [DP(51]: From Licensing regs

Commented [DP(52]: "Trammel" not used

Commented [DP(53]: From Licensing regs

Commented [DP(54]: There are only 3

Commented [DP(55]: Contained in both SF and Aquaculture regs. Revised to reflect harvest of species other than shellfish

Commented [DP(56]: From Licensing regs

Commented [DP(57]: From Aqua regs

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

Commented [DP(58]: From Crust regs

Jonah crab means *Cancer borealis.*

Land or landing ~~to enter port with fish on board, to begin offloading fish, or to offload fish~~ means to off-load seafood products, including, but not limited to, finfish, shellfish, and crustaceans, for sale or intended sale, or to secure a vessel with the seafood products on board to a shoreside facility where the products may be offloaded for sale or intended sale. (RIGL 20-1-3)

Commented [DP(59]: Omitted language from Part I. Kept language form SF, Crust and Licensing regs and statute

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.

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

Commented [DP(60]: From Crust regs

Licensed aquaculturist means any person licensed by the State of Rhode Island to culture and possess shellfish, finfish, or aquatic plants pursuant to the provisions of RIGL Chapter 20-10 and § 20-2-27.2.

Licensed Captain means an individual who holds or held a~~ny~~ **valid** commercial fishing license issued by the Department~~, as set forth under sections 6.8, or 6.9~~.

Commented [DP(61]: From Licensing regs

Licensed shellfisherman means 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 means 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 means January 1 of any given year through December 31 of the same year.

Commented [DP(62]: From Licensing regs

Lobster ~~trap/~~**pot** means any pot or trap designed or adapted principally for the catching

Commented [DP(63]: "trap' part of the definition

or taking of lobsters.

Lottery means 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.

Commented [DP(64]: From Licensing regs

LTA means lobster trap allocation, either issued by the Department or NOAA Fisheries.

LTA transfer means a change in ownership of a partial or entire Department- or NOAA Fisheries-issued LTA by an individual or Corporation.

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

LTA transferee means the individual, corporations or fishing vessel to whom/which an LTA transfer is made.

Commented [DP(65]: From Crust regs

Material Incapacitation means 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. ~~Material incapacitation is further defined in subsection 6.7-8(d).~~

Commented [DP(66]: From Licensing regs

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 45°F or less.

Commented [DP(67]: From Aqua regs

Medical Hardship means an applicant's significant medical condition that prevents them from meeting ~~the~~ **Licensing** application requirements.

Menhaden means *Brevoortia tyrannus.*

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

Netting means 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.

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

Non-resident landowner means a nonresident 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 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.

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

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

Offshore means that point of any net which is the greatest distance from the coast.

Open to the sea means 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 means 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 means 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.

Commented [DP(68]: From Crust regs

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

Peck means one fourth (1/4) of a bushel. (RIGL 20-1-3)

Person means an individual, corporation, partnership, co-partnership, association, private or municipal corporation, or other legal entity firm. (RIGL 20-1-3; 20-8.1-1)

Commented [DP(69]: From Part I and SF regs; combined language from both statues

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.

Commented [DP(70]: From Licensing regs

Point of Sale means 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 means *Pollachius virens.*

Polluted area means any 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 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 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 means 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.

Commented [DP(71]: From Aqua regs

Possession of wild stocks means 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.

Commented [DP(72]: From Aqua regs

Pot~~/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.

Commented [DP(73]: "Trap" is defined as a "pot"

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.

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

Commented [DP(74]: From Crust regs

Quart means one thirty-second (1/32) of a bushel.

Quota means ~~An allocation of an amount of a specific species of fish, shellfish or crustaceans available to be harvested by Rhode Island fishers. This allocation is made by regional management councils and commissions and may be further allocated by the Department by season or among different types of fishers means~~ the maximum weight or number of ~~fish~~ **marine species** which can legally be landed within a stated time period. ~~A quota can apply to an entire fishery or to an individual vessel or fisherman.~~

Commented [DP(75]: Inconsistency. Omitted language from Licensing regs; kept language from Part I

Rainbow smelt means *Osmerus mordax.*

Replace means 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 means 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 means an individual 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)

Commented [DP(76]: From Licensing regs

Resubmerge means, and is strictly limited to, reintroduction of shell stock into approved waters following the removal of such stock from approved waters for husbandry purposes.

Commented [DP(77]: From Aqua regs

RIGL means Rhode Island General Laws.

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

Rock crab means *Cancer irroratus.*

Routine trap tag loss means the loss of lobster trap tags that does not exceed the 10% over-allotment trap tags issued for routine loss~~, based on the maximum number of lobster traps deployed~~.

Commented [DP(78]: As written in Crust regs

Sand tiger shark means ~~that species of fish known as~~ *Carcharias taurus.*

Scup means *Stenotomus chrysops.*

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

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. ~~including haul seines, beach seines, and purse seines; haul seines and beach seines may not exceed six hundred (600) feet in length~~.

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 ~~all species of: (a) Oysters, clams or mussels, whether: (i) Shucked or in the shell; (ii) Raw, including post-harvest processed; (iii) Frozen or unfrozen; (iv) Whole or in part; and (b) Scallops in any form, except when the final product form is the adductor muscle only~~ means and includes any molluscan species growing in Rhode Island tidal waters, including, but not limited to, bay quahaug ~~(*Mercenaria mercenaria*)~~, ocean quahaug ~~(*Arctica islandica*)~~, blue mussel ~~(*Mytilus edulis*)~~, oyster ~~(*Crassostrea virginica and Ostrea edulis*)~~, soft shell clam ~~(*Mya arenaria*)~~, bay scallop ~~(*Argopectans irradians*)~~, **and** surf ~~or sea~~ clam ~~(*Spisula solidissima*)~~.

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

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. **(RIGL 20-8.1-1)**

Shellfish harvest tagging area means the area of the waters of the state where shellfish are harvested (refer to http://www.dem.ri.gov/programs/bnatres/fishwild/shelltag.htm

Shellfish seed means for bay quahaug, a shell size less than 20 mm (0.78") longest axis length, and for oysters~~, Crassostrea virginica and Ostrea edulis~~, 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 means the introduction of shellfish spat or sub-legal juvenile animals into an area for purposes of increasing the population of shellfish in that area.

Spat means newly settled post-metamorphic bivalve.

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

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.

Smelt means *Osmerus mordax.*

Commented [DP(79]: Obsolete and/or inconsistent with other regs

Commented [DP(80]: From Aqua regs

Commented [DP(81]: From Aqua regs.

Commented [DP(82]: From SF regs

Commented [DP(83]: From SF regs

Commented [DP(84]: From Aqua regs

Commented [DP(85]: From Licensing regs

Commented [DP(86]: From Aqua regs

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

Spiny dogfish means Squalus *acanthias.*

~~Stake traps means nets and/or netting, set on stakes or poles, for the purpose of catching fish.~~

Commented [DP(87]: Not used in regs

Striped bass means *Morone saxatilis.*

Summer flounder (fluke) means Paralichthys *dentatus.*

Surf clam or sea clam means Spisula solidissima.

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.

TAL means total allowable landings.

Commented [DP(88]: Used throughout regulations

Tautog (blackfish) means *Tautoga onitis.*

Temperature control means the use of ice or mechanical refrigeration, which is capable of lowering the temperature of the shellstock and maintaining it at ~~45~~50°F or less.

Commented [DP(89]: From Aqua and SF regs; deleted language from SF regs

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 size are measured as total length, except for coastal sharks, in which minimum size in measured by fork length.

Transaction Records means invoices or similar records of the purchase of fish, shellfish, crustaceans or other seafood products 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.

Commented [DP(90]: From Licensing regs

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

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 -- this will apply to, 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 voyage.

Unreasonable Hardship means substantial economic loss which is unique to an individual, 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.

Commented [DP(91]: From Licensing regs

V-Notched female American lobster means 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 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.

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

Vessel Upgrade means 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.

Commented [DP(92]: From Licensing regs

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 calendar week, which means the period beginning on Sunday at 12:00AM and ending on 11:59PM 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 sea-water; this includes flow-through systems.

White Shark means ~~that species of fish known as~~ *Carcharodon carcharias.*

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.

Commented [DP(93]: From Aqua regs

Winter flounder ~~(Blackback flounder, flatfish)~~ means *Pleuronectes americanus.*

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

Yellowtail flounder means *Limanda ferruginea.*

~~1.4 Rules and Regulations -- The Director is authorized to promulgate, adopt, and enforce any and all rules and regulations deemed necessary to carry out duties and responsibilities under this Title. (RIGL 20-1-4)~~

~~1.5 General Enforcement Powers. -- The Director and the Director's authorized agents, employees, and designees shall protect the wild birds, wild animals, fisheries, and shell fisheries throughout the State and shall administer and enforce the provisions of this Title and the rules and regulations adopted pursuant to this title and shall prosecute violations of these laws and rules and regulations. (RIGL 20-1-5)~~

~~1.6 Appointment and Delegation of Powers to Conservation Officers. -- The Director shall appoint any number of conservation officers as he or she may deem necessary for the detection and prosecution of any violations of the laws of this State enumerated in § 20-1-8. The Director may delegate any and all of his or her powers and duties to each of these conservation officers who shall serve at the Director's pleasure. (RIGL 20-1-6)~~

~~1.7 Deputy Wardens. -- The Director may appoint such a number of deputy wardens as he or she may deem necessary. The deputy wardens shall not be authorized to carry pistols or revolvers but shall be authorized to detect violators of the laws of this State enumerated in § 20-1-8. Such detection shall be reported to the Director, who may proceed with the prosecution. Deputy wardens shall be given an identification badge by the Director and shall serve at the Director's pleasure. (RIGL 20-1-7)~~

~~1.8 Enforcement Powers of Director and Conservation Officers. -- (A) The Director and each conservation officer shall have the power:~~

~~(1) to enforce all laws, rules, and regulations of this State pertaining to:~~
~~(i) fish, wildlife, and all vertebrates, invertebrates, and plants;~~
~~(ii) fresh water wetlands, dams, and resources;~~

(iii) areas and activities subject to the jurisdiction of the Coastal Resources Management Council;
(iv) state parks, reservations, Management Areas, hatcheries and game preserves, and any law of the State within such State parks, reservations, Management Areas, and game preserves;
(v) solid and hazardous waste transportation, storage and disposal and any other laws of the State regarding solid and/or hazardous wastes;
(vi) boating safety, water safety, and drowning prevention;
(vii) water and air pollution and open burning;
(viii) firearms;
(ix) littering;
(x) trees and forests, forestry, and protection of forests from fire hazards and trespass;
(xi) agriculture, farmland, and pest control.

(2) to issue summonses and to execute all warrants and search warrants for the violation of the laws, rules and regulations enumerated in subdivision (a)(1) or (a)(9) of this section;

(3) to serve subpoenas issued for the trial or hearing of all offenses against the law, rules and regulations enumerated in subsection (a)(1) or (a)(9) of this section;

(4) to arrest without a warrant any person found violating any law, rule, or regulation enumerated in subdivision (a)(1), take that person before a court of competent jurisdiction and detain that person in custody at the expense of the State until arraignment, except when a summons can be issued in accordance with § 12-7-11;

(5) to seize and take possession of all fish, shellfish, crustaceans, marine mammals, amphibians, reptiles, birds, and mammals in possession or under control of any person or which have been shipped or are about to be shipped, at any time, in any manner, or for any purpose contrary to the laws of this State, and dispose of them at the discretion of the Director;

(6) to seize all fishing tackle, firearms, shooting and hunting paraphernalia, hunting, fishing, or trapping licenses, traps, decoys, tongs, bullrakes, dredges or other implements or appliances used in violation of any law, rule, or regulation relating to fish, shellfish, crustaceans, marine mammals, amphibians, reptiles, birds, and mammals; or any equipment, materials, tools, implements, samples of substances or any other item used in violations of any other law, rule, or regulation enumerated in subdivision (a)(9) when making an arrest as found in the execution of a search warrant, and hold the seized item or items at owner's expense until the fine and costs imposed for the violation have been paid in full;

(7) (i) to go on board any boat or vessel engaged or believed to be engaged in fishing and examine any fishing, shellfish, scallop, lobster, multipurpose, or other license issued under this title.

(ii) to go on board any boat or vessel engaged or believed to be engaged in fishing and to inspect that boat or vessel for compliance with the provisions of this title and any rules relative to the taking of fish, shellfish, crustaceans marine mammals, amphibians, and reptiles. In the absence of probable cause to believe that a crime relative to the taking of such marine species has been, or is being, committed, any evidence obtained as the result of a boarding (other than for the purpose of examining a license) or of an inspection, may not be used in a criminal prosecution.

(8) to carry firearms or other weapons, concealed or otherwise, in the course of and in performance of the duties of office;

(9) and to arrest without a warrant, to execute all warrants and search warrants, and to make and execute complaints within any district to the justice or clerk of the district court without recognizance or surety, against any person for the following criminal offenses:

(i) assault;
(ii) assault with a dangerous weapon;
(iii) larceny;
(iv) vandalism;
(v) obstructing officer in execution of duty.

(B) Conservation Officers shall be deemed "officer" within the meaning of § 11-32-1.

(C) it shall be a misdemeanor punishable by a fine of not more than five hundred dollars ($500) or imprisonment for not more than thirty (30) days, or both, for any person to refuse to move or to stop on an oral command or order of a Conservation Officer, when the officer is acting in the performance of his or her duties. (RIGL 20-1-8)

1.9 Procedures for Seizure and Forfeiture.

(A) Any vessel, boat, fishing tackle, guns, shooting and hunting paraphernalia, traps, decoys, or any other implements, appliances or equipment used in violation of any law, rule or regulation relating to fish and wildlife which, by provision of any Section of this Title, is subject to forfeiture to the State, shall be seized pursuant to § 20-1-8(a)(6) and forfeited under the provisions of this Section.

(B) The Attorney General shall proceed pursuant to §§ 12-21-23 to 12-21-32, to show cause why the vessel, boat, fishing tackle, guns, shooting, and hunting paraphernalia, traps, decoys, and any other implements, appliances or equipment used in the knowing and willful violation of any law, rule, or regulation relating to fish and wildlife which, by provision of any Section this Title, is subject to forfeiture to the State, may be forfeited to the use of or the sale of the Department on producing due proof that the vessel, fishing tackle, guns, shooting and hunting paraphernalia, traps, decoys, or any other implements, appliances or equipment was used in such violation.

(C) Whenever property is forfeited under this Section, and the specific provision of this Title requiring forfeiture for a particular offense, the Department may:

(1) retain the property for official use;
(2) sell any forfeited property which is not required by this Title to be destroyed and

which is not harmful to the public; but the proceeds of this sale, after first deducting the amount sufficient for all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody and advertising and court costs, shall be paid to the General Treasurer for the use of the State.
(RIGL 20-1-8.1)

1.10 Operation of Patrol Boats. -- The General Assembly shall annually appropriate any sum as it may deem necessary to patrol and police the shellfish grounds, check licenses of fishermen, protect the scallop areas, collect animal specimens and execute special work incidental to the lobster and other shellfisheries and enforce the provisions of Chapter 22 of Title 46, this sum to be expended under the direction of the Director of the Department of Environmental Management for the purpose of maintaining and operating patrol boats and their crews. The Controller is hereby authorized and directed to draw orders upon the General Treasurer for the payment of such sum or sums as may be required from time to time upon the receipt by the controller of proper vouchers approved by the Director. (RIGL 20-1-9)

1.11 Obligation of Vessels to Heave to on Command of a Patrol Boat.
(A) Every person operating a boat or vessel in Rhode Island territorial waters who fails to immediately heave-to upon a shouted command or a flare fired into the air from a marine patrol boat operated by the Department of Environmental Management and carrying the identification "Department of Environmental Management, State of Rhode Island" shall be punished by a fine of not less than twenty-five dollars ($25) nor more than five hundred dollars ($500).
(B) Every person who shall, while aboard a boat or vessel in Rhode Island territorial waters which has been ordered to heave to upon shouted command or a flare fired into the air from a marine patrol boat operated by the Department of Environmental Management and carrying the identification "Department of Environmental Management, State of Rhode Island" dumps, destroys, or throws anything from the vessel or boat shall be punished by a fine of not less than twenty-five dollars ($25) nor more than five hundred dollars ($500).
(RIGL 20-1-10)

1.12 Prosecution of Violations. -- It shall be the duty of the Attorney General to conduct the prosecution of all court proceedings brought by the Director as requested by the Director. (RIGL 20-1-11)

1.13 Fixing of Seasons and Bag Limits. –
(A) The Director is hereby authorized to adopt regulations fixing seasons, bag limits, size limits, possession limits, and methods of taking on any species of fish, game, bird, or other wild animal occurring within the State, other than marine species regulated by the Marine Fisheries Council.
    (1) These regulations may prohibit the taking, holding, or possession of any species, prohibit the taking, molestation, or disturbance in any way of nesting, breeding or feeding sites of any species and/or prohibit, control or regulate any commercial use, importation into the State or exportation from the State

of any species.

(2) Such regulations may be of statewide applicability or may be applicable in any specified locality or localities within the State when the Director shall find, after investigation, that the regulations are appropriate.

(B) Any person who violates any provision of chapter or any rule or regulation made under the provisions of this chapter shall be guilty of a violation and shall be subject to a fine of one hundred dollars ($100) for each violation.
(C) Notwithstanding any inconsistent provision of law, the district court shall have exclusive jurisdiction to hear and determine all violations specified in this chapter and shall be afforded those options as provided for in § 46-22-19.2.
(D) The regulations shall be adopted only after the holding of a public hearing subject to the provisions of the Administrative Procedures Act, Chapter 35 of Title 42. (RIGL 20-1-12)

1.14 Publication and Effective Date of Seasons and Bag Limits. -- Notice of the Director's intention to adopt regulations pursuant to § 20-1-12, and the holding of a public hearing of these regulations, shall be published in at least one newspaper of general statewide circulation, not less than twenty (20) days prior to the date of the public hearing. These regulations shall remain in effect not longer than one (1) year following the date of their effectiveness. (RIGL 20-1-13)

1.15 Entry of Private Property. -- The Director of Environmental Management and each duly authorized employee of that Department may, in the discharge of his or her duties under this Title, enter upon and pass over private property without liability for trespass. If feasible, the employee shall give notice to the property owner. (RIGL 20-1-15)

1.16 Penalty for Violations. -- 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) or imprisonment for up to ninety (90) days, or both. (RIGL 20-1-16)

1.17 Cooperation with Other States. -- The Director may cooperate with the fish and wildlife commissioners or other similar bodies or agencies of other states in carrying out the purpose of this Title. (RIGL 20-1-17)

1.18 Collector's Permits. -- Notwithstanding any other restriction or prohibition set forth in this Title, the Director is authorized to issue special permits for the taking, handling, and/or possession of any species of wild animal, of any size, age and numbers as may be appropriate, to persons for the purpose of carrying out scientific experiments and cultivation projects for which the Director has responsibility. The Director may require an applicant to provide any information as that the Director deems necessary to ascertain that the person is involved in a bona fide experiment or project. Failure to abide by the provisions of any permit or failure to report any information required by the Director shall be cause for suspension or revocation of permit. (RIGL 20-1-18)

1.19 Powers of Enforcement of Officers in Waters Between States. -- If and when the states of New York and Connecticut and the Commonwealth of Massachusetts, or any of them, shall enact similar laws for the arrest and punishment for violations of the conservation or fish laws
of this State or the state so enacting the similar law, committed or attempted to be committed by any person or persons fishing in waters lying between states, any wildlife protector, fish warden, or other person of either state who is authorized to make arrests for violations of the conservation or fish laws of state, shall have power and authority to make arrest on any part of waters between states or the shores thereof and to take any person or persons so arrested for trial to the state in which the violation was committed and there to prosecute the person or persons according to the laws of that state. (RIGL 20-1-19)

1.20 Power to Require Reports. -- When deemed necessary to carry out the Director's duties under this Title, the Director may require that reports detailing hunt, catch, effort, and other data be provided to the Director by any person who hunts or fishes in this State or who lands his or her catch in this State. These individual reports and other data shall remain confidential and may only be disseminated to the public or persons outside the Department in a statistical format. (RIGL 20-1-20) (Penalty 20-1-16 - Part 1.16 and 20-4-6 - Part 11.11)

1.21 Severability. -- The provisions of this Title shall be interpreted and construed liberally in aid of its declared purpose. If any provision of any of the Chapters in this Title or any rule or regulation issued is held invalid by a court of competent jurisdiction, the remainder of the Title and rules and regulations shall not be affected, but shall be construed in such a way as to give all the provisions of this Title full and valid effect to the fullest extent consistent with the law. The invalidity of any Section or parts of any Section shall not affect the validity of the remainder of this Title.
(RIGL 20-1-22)

1.22 General powers. --
(a) The following fees shall be established and paid to the Department of Environmental Management for issuance of the following special permits:

Ferret Permit	$10.00
Scientific Collector's Permit	$25.00

(b) Any fees collected under authority of this section shall be deposited into restricted receipt accounts established by this Title, as appropriate to the type of special permit issued, and shall be used only for the authorized purposes of such restricted receipts account. The accounts include, but are not limited to: fishing license account, hunting license account, wildlife fund.

(c) The Division of Fish and Wildlife shall be authorized to establish fees for reference, educational, and souvenir-type materials provided upon request to interested parties.

~~Such materials include, but are not limited to: surveys, guides, maps, posters, reference, and educational booklets and materials, and articles of clothing. No fee shall be required for any materials describing or implementing any licensing or regulatory authority of the Division. Any fees collected under authority of this section shall be deposited as general revenues. (RIGL 20-1-21)~~

Commented [DP(94]: Non-regulatory statutory language, and/or not pertinent to Marine Fisheries regulations

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**
Public Hearing:	**02/16/2016**
Filing date:	**XX/XX/2016**
Effective date:	**XX/XX/2016**

ERLID # **XXXX**

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 I
DEFINITIONS

Proposed ADOPTION of Regulation

In conjunction with proposed REPEAL of "RIMFR – Part I – Legislative Findings"

Public hearing
February 16, 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.

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:

Actively Fishing means 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) days in the preceding two 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 means 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) days in the preceding two calendar years, with some of the fishing activity occurring in each of the two 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.

Adequately iced means that the amount and application of the ice is 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.

Alewife means *Alosa pseudoharengus.*

American eel means *Anguilla rostrata.*

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

American plaice (Dab) means *Hippoglossoides platessoides.*

Anadromous fish means 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.*

Application Deadline means 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.

Approved means approved by the Director.

Approved waters or **Approved growing areas** means 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 means the cultivation, rearing, or propagation of aquatic plants or animals, herein referred to as cultured crops, under natural or artificial conditions.

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

Aquaculture lease means the permitted area for which the Coastal Resources Management Council (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 means the individual, firm, partnership, association, academic institution, municipality, or corporation conducting commercial, experimental, or restoration aquaculture in Rhode Island.

Atlantic cod means *Gadus morhua.*

Atlantic Horseshoe Crab means *Limulus polyphemus*.

Atlantic menhaden means *Brevoortia tyrannus.*

Atlantic herring means *Clupea harengus.*

Authorized person means an Environmental Police Officer or any other representative of the Director authorized to administer or enforce these regulations.

Bait gillnet means 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 means 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 means that species of fish known as *Cetorhinus maximus.*

Bay quahaug means *Mercenaria mercenaria.* (RIGL 20-1-3)
Bay scallop means *Argopecten irradians.* (RIGL 20-1-3)

Bay scallop dredging means 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.

Bill of Landing means 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 means *Centropristes striatus.*

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

Bluefish means *Pomatomus saltatrix.*

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

Bottom tending gillnet means a gillnet, anchored or otherwise, which is fished on or near the bottom or within the lower one third (1/3) of the water column.

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. (RIGL 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 is 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 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 means any vessel that carries passengers for hire to engage in fishing

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

Coastal salt ponds and/or river system channels means 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 means 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 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 Fishing Vessel means any vessel, boat or craft employed in the harvesting of marine species commercially, which shall first be declared with the Department.

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

Conch trap/pot means any pot or trap designed or adapted principally for the catching or taking of conchs.

Conditionally approved waters means any 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 means that a person setting a bait net is within one hundred (100) feet 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 trap/pot means any pot or trap designed or adapted principally for the catching or taking of crabs.

Crew means an individual, 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 DEM”s “*Commercial and Recreational*

Saltwater Fishing Licensing Regulations".

CRMC means the Rhode Island Coastal Resources Management Council.

Cultured crops mean 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.

Dealer means a person means a person, partnership, firm, association, or corporation licensed to barter or trade in marine species.

DEM or **Department** means the 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.

Director means 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 means fish, shellfish or crustaceans 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 the catch after leaving the dealer, such as sold for food, sold for bait, etc.

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

Dockside sales endorsement means 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 means the RI Department of Health.

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

Dusky shark means *Carcharhinus obscurus.*

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 (EEZ) means 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 means 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 means the 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 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.

Fishery means one or more stocks of fish 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 means properly documented commercial lobster fishing activity – namely pounds landed and traps fished in LCMA 2 during the applicable qualifying period.

Fishery Sector means 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 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. (RIGL 20-5-1)

Floating gillnet means a gillnet set in which any portion of the gillnet is exposed at the surface.

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

Full Harvest and Gear Level means 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 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 fish, shellfish or crustaceans.

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

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

Goosefish (monkfish) means *Lophius americanus.*

Grace period means 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 means landing condition of each marine species such as whole, gutted, etc.

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

Haddock means *Melanogrammus aeglefinus.*

Harbor of Refuge breakwater means the three sections of breakwater off of Pt. Judith.

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

Harvest Level means the amount of fish, shellfish or crustaceans 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 means the distance between the convex apex of the right shell and the convex apex of the left shell.

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

Incapacity means 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 means 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 means *Cancer borealis.*

Land or landing means to off-load seafood products, including, but not limited to, finfish, shellfish, and crustaceans, for sale or intended sale, or to secure a vessel with the seafood products on board to a shoreside facility where the products may be offloaded for sale or intended sale. (RIGL 20-1-3)

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.

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

Licensed aquaculturist means any person licensed by the State of Rhode Island to culture and possess shellfish, finfish, or aquatic plants pursuant to the provisions of RIGL Chapter 20-10 and § 20-2-27.2.

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

Licensed shellfisherman means 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 means 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 means January 1 of any given year through December 31 of the same year.

Lobster pot means any pot or trap designed or adapted principally for the catching or taking of lobsters.

Lottery means 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 means lobster trap allocation, either issued by the Department or NOAA Fisheries.

LTA transfer means a change in ownership of a partial or entire Department- or NOAA Fisheries-issued LTA by an individual or Corporation.

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

LTA transferee means the individual, corporations or fishing vessel to whom/which an LTA transfer is made.

Material Incapacitation means 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 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 45°F or less.

Medical Hardship means an applicant's significant medical condition that prevents them from meeting Licensing application requirements.

Menhaden means *Brevoortia tyrannus.*

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

Netting means 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.

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

Non-resident landowner means a nonresident 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 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.

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

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

Offshore means that point of any net which is the greatest distance from the coast.

Open to the sea means 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 means 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 means 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.

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

Peck means one fourth (1/4) of a bushel. (RIGL 20-1-3)

Person means 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 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.

Point of Sale means 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 means *Pollachius virens.*

Polluted area means any 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 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 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 means 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 means 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 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.

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

Quart means one thirty-second (1/32) of a bushel.

Quota means the maximum weight or number of marine species which can legally be landed within a stated time period.

Rainbow smelt means *Osmerus mordax.*

Replace means 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 means 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 means an individual 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 means, and is strictly limited to, reintroduction of shell stock into approved waters following the removal of such stock from approved waters for husbandry purposes.

RIGL means Rhode Island General Laws.

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

Rock crab means *Cancer irroratus.*

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

Sand tiger shark means *Carcharias taurus.*

Scup means *Stenotomus chrysops.*

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

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.

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

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. (RIGL 20-8.1-1)

Shellfish harvest tagging area means the area of the waters of the state where shellfish are harvested (refer to http://www.dem.ri.gov/programs/bnatres/fishwild/shelltag.htm

Shellfish seed means for bay quahaug, a shell size less than 20 mm (0.78") longest axis length, and 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 means the introduction of shellfish spat or sub-legal juvenile animals into an area for purposes of increasing the population of shellfish in that area.

Spat means newly settled post-metamorphic bivalve.

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

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.

Smelt means *Osmerus mordax.*

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

Spiny dogfish means Squalus *acanthias.*

Striped bass means *Morone saxatilis.*

Summer flounder (fluke) means Paralichthys *dentatus.*

Surf clam or sea clam means Spisula solidissima.

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.

TAL means total allowable landings.

Tautog (blackfish) means *Tautoga onitis.*

Temperature control means the use of ice or mechanical refrigeration, which is capable of lowering the temperature of the shellstock and maintaining it at ~~45~~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 size are measured as total length, except for coastal sharks, in which minimum size in measured by fork length.

Transaction Records means invoices or similar records of the purchase of fish, shellfish, crustaceans or other seafood products 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 means to convey, pass, or remove something from one person, place, and/or vessel to another.

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 -- this will apply to, 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 voyage.

Unreasonable Hardship means substantial economic loss which is unique to an individual, 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.

V-Notched female American lobster means 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 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.

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

Vessel Upgrade means 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 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 calendar week, which means the period beginning on Sunday at 12:00AM and ending on 11:59PM 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 sea-water; this includes flow-through systems.

White Shark means *Carcharodon carcharias.*

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.

Winter flounder means *Pleuronectes americanus.*

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

Yellowtail flounder means *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.

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Janet L. Coit, Director
Department of Environmental Management

Notice Given:	**01/15/2016**
Public Hearing:	**02/16/2016**
Filing date:	**XX/XX/2016**
Effective date:	**XX/XX/2016**

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