STATE OF RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
DIVISION OF FISH AND WILDLIFE
MARINE FISHERIES SECTION

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 certain amendments to the Rhode Island Marine Fisheries Regulations and gives notice of intent to hold a public hearing to afford interested parties the opportunity for public comment.

Public comment will be solicited on the following proposals:

1) Finfish Sector Management Plan for 2014;
2) Shellfish Sector Management Plan for 2014;
3) Crustacean Sector Management Plan for 2014;
4) Amendments to the RI Marine Fisheries regulations, "Commercial and Recreational Saltwater Fishing Licensing Regulations";
5) Amendments to the RI Marine Fisheries regulations "Part XV - Lobsters, Other Crustaceans, and Horseshoe Crabs", regarding LCMA 6 language (section 15.20.3);
6) Amendments to the RI Marine Fisheries regulations "Part XV - Lobsters, Other Crustaceans, and Horseshoe Crabs", regarding the management of Horseshoe Crabs (section 15.24);
7) Amendments to the RI Marine Fisheries regulations "Part X - Equipment Restrictions", regarding trawling roller gear (section 10.12);
8) Amendments to the RI Marine Fisheries regulations "Part XIX – Fish/Shellfish Dealer Regulations", regarding non-indigenous Horseshoe Crabs (section 19.15);

The public hearing will commence at 6:00 PM on **Wednesday, September 18, 2013,** at the University of Rhode Island, Graduate School of Oceanography, Corless Auditorium, South Ferry Road, Narragansett, RI 02882. The room is accessible to the disabled. Interpreter services for the hearing impaired will be provided if such services are requested at least (3) business days prior to the hearing. Requests for such services may be made in writing or by calling TTY (711) or (401) 222-5300. A recording of the hearing will be made by DEM staff. Written comments concerning the regulations proposed for promulgation by the DEM may be submitted to the Division of Fish and Wildlife, 3 Fort Wetherill Road, Jamestown, RI 02835 **no later than 12:00 PM on September 18, 2013**.

The Department has determined that small businesses may be adversely impacted by some of the proposed regulations listed above. The public hearing is being conducted to solicit comment on the proposals and to allow public input from small businesses or any cities or towns, which may be adversely affected. Small businesses which are either currently licensed or in the future may seek permission to harvest, buy, sell, or produce seafood products as well as the small businesses that provide services related to those engaged in such industries and small businesses which buy, sell, or produce products or provide services related to fishing 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.

A copy of the proposed regulations will be available for examination from July 16, through August 15, 2013, by mail or at the offices of the Division of Fish and Wildlife located at 3 Fort Wetherill Road, Jamestown, RI 02835. Electronic copies of the proposed regulations will also be available on the DEM website at the following web address: http://www.dem.ri.gov/programs/bnatres/fishwild/pn081513.htm.

Janet L. Coit,
Director

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Division of Fish and Wildlife
Marine Fisheries

Commercial and Recreational Saltwater Fishing Licensing Regulations

~~**February 28, 2013**~~

AUTHORITY: These regulations are adopted pursuant to Chapter 42-17.1, Section 20-1-4, Section 20-2.1 and Public Laws Chapter 02- 047, in accordance with Chapter 42-35 of the Rhode Island General Laws of 1956, as amended.

Filed with the Secretary of State:
02/28/2013

Effective Date:
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Table of Contents

			Page
Rule 1	Purpose		5
Rule 2	Authority		5
Rule 3	Application		5
Rule 4	Superceded Rules & Regulations		5
Rule 5	Definitions		6
Rule 6	General Management and Licensing Regulations		11
	6.1. Management Controls		11
6.1-1	Fishery Endorsements	11	
6.1-2	Harvest & Gear Levels	11	
6.1-3	Regulation of Gear	12	
6.1-4	Times & Seasons	12	
6.1-5	Area Closures & Restrictions	12	
6.1-6	Quotas	12	
6.1-7	Catch and Landings Limits	12	
6.1-8	Limits on Entry	12	
6.1-9	Control Dates	12	
6.1-10	Exit/Entry Ratios	13	
6.1-11	Annual Promulgation of Rules	13	
	6.2 Management Plans		14
6.2-1	Required	14	
6.2-2	Purpose & Content	14	
6.2-3	Procedure for Adopting	15	
	6.3 Emergencies		15
	6.4 Annual Report		15
	6.4-1 Content		15
	6.4-2 Due Date		16
	6.5 Use of License, Landing Permit and Vessel Declaration Fees		16
	6.5-1 Annual Spending Plan		16
	6.5-2 Activities Eligible for Funding		16
	6.5-3 Special Projects		16
	6.6 Data Reporting		17
	6.6-1 Required		17
	6.6-2 Manner of Reporting		17
	6.6.3 Collection and Use of Data		17

			Page
6.7	Licensing		18
	6.7-1	Information Required	18
	6.7-2	Other Requirements	19
	6.7-3	Application Deadlines	19
	6.7-4	License Renewals, Transitions and Upgrades	22
	6.7-5	Issuance of New Licenses and Endorsements; Generally	22
	6.7-6	Issuance of New Licenses and Endorsements; Prioritization	22
	6.7-7	Issuance of New Commercial Fishing Licenses with Quahaug, Restricted Finfish and/or Lobster Endorsements; Automatic Eligibility for Family Members and Crew Members of Retirees	23
	6.7-8	Issuance of New Licenses Upon Sale of Vessel & Gear	23
	6.7-9	Issuance of New Licenses and Operator Permits Under Hardship Conditions	25
	6.7-10	Requests for Reconsideration of License Denials	26
	6.7-11	Demonstration and Verification of Actively Fishing and Actively Participating Standards	27
6.8	Licenses, Endorsements and Vessel Declarations; Resident		28
	6.8-1	Fishery Endorsements	28
	6.8-2	Commercial Fishing License	28
	6.8-3	Principal Effort License	29
	6.8-4	Multi-Purpose License	29
	6.8-5	Student Shellfish License	30
	6.8-6	65 and Over Shellfish License	30
	6.8-7	Gear Endorsements	30
	6.8-8	Vessel Declaration	31
	6.8-9	Dockside Sales Endorsement	32
	6.8-10	Research Set Aside Endorsement	33
	6.8-11	**Paper Catch and Effort Harvester and Dockside Sales Logbook Endorsement**	**xx**
6.9	Licenses, Endorsements and Vessel Declarations; Non-Resident		34
	6.9-1	Non-Resident Fishery Endorsements	34
	6.9-2	Non-Resident Commercial Fishing License	34
	6.9-3	Non-Resident Principal Effort License	35
	6.9-4	Non-Resident Vessel Declaration	35
6.10	Landing Permits		35
	6.10-1	General Requirements	35
	~~6.10-2~~	~~Resident Finfish Landing Permit~~	36
	~~6.10-3~~	~~Resident Shellfish Landing Permit~~	36
	~~6.10-4~~	~~Resident Crustacean Landing Permit~~	36
	6.10-5	Resident ~~Multi-Purpose~~ Landing Permit	37
	~~6.10-6~~	~~Resident Miscellaneous Landing Permit~~	37
	6.10-7	Non-Resident ~~Restricted Finfish~~ Landing Permit **with Restricted Finfish**	37

~~6.10-8 Non-Resident Non-Restricted Finfish Landing Permit~~ 38
~~6.10-9 Non-Resident Shellfish Landing Permit~~ 38
~~6.10-10 Non-Resident Crustacean Landing Permit~~ 38
6.10-11 Non-Resident ~~Multi-Purpose~~ Landing Permit 38
~~6.10-12 Non-Resident Miscellaneous Landing Permit~~ 39

6.11 Dealer's Licenses 39
6.11-1 General Requirements 39
6.11-2 Multi-Purpose Dealer's License 39
6.11-3 Finfish Dealer's License 40
6.11-4 Shellfish Dealer's License 40
6.11-5 Lobster Dealer's License 40

6.12 Penalties 40
6.12-1 Violations 40
6.12-2 False Statements 40
6.12-3 Alterations, Forgeries & Counterfeits 41
6.12-4 Failure to Possess, Present or Display a Proper License, Permit, or Vessel Declaration 41

Rule 7 Availability of New Licenses and Endorsements for ~~2013~~ **2014** 41
7.1 Multi-Purpose Licenses 41

7.2 Principal Effort Licenses 42

7.3 Commercial Fishing Licenses 42

7.4 Student and 65 and Over Shellfish Licenses 42

7.5 Fish Trap Endorsements 42

7.6 Gill Net Endorsements 43

7.7 Purse Seine Endorsements and Mid-Water/Pair Trawl Endorsements 43

7.8 Whelk Endorsements 22

Rule 8 Harvest and Gear Levels for ~~2013~~ **2014** 43
8.1 Full Harvest and Gear Levels 43

8.2 Basic Harvest and Gear Levels 43
8.2-1 Lobster 43
8.2-2 Non-Lobster Crustacean 44
8.2-3 Quahaug 44
8.2-4 Soft-shell Clam 44
8.2-5 Shellfish Other 44
8.2-6 Non-Restricted Finfish 44
8.2-7 Whelk 44

Rule 9 Recreational Saltwater Fishing Licenses 44
9.1 General Provisions 44

	9.2 Exemptions	45
Rule 10	Vessel-Based Regulations	45
	10.1 Vessels Fishing Recreationally	45
	10.2 Party/Charter Vessels	46
	10.3 Vessels Fishing Commercially	46
	10.4 Vessels Fishing in More Than One Mode	47
Rule 11	Severability	47
Rule 12	Effective Date	48

RULES AND REGULATIONS GOVERNING THE MANAGEMENT OF MARINE FISHERIES

RULE 1. PURPOSE

The purpose of these regulations is to establish a process for managing marine fisheries, through the development of management plans and programs, licensing protocols, and data collection systems.

RULE 2. AUTHORITY

These Rules and Regulations are promulgated pursuant to Chapter 42-17.1, Section 20-1-4, Chapter 20-2.1, and Chapter 20-2.2, and in accordance with Chapter 42-35, of the Rhode Island General Laws of 1956, as amended.

RULE 3. APPLICATION

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

RULE 4. SUPERCEDED 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 the General Laws in Chapter 20-2, entitled "Licensing," Chapter 20-2.1 entitled “Commercial Fishing Licenses,” and Chapter 20-3.1, entitled "Marine Fisheries Management Modernization,” shall be superseded, provided that regulations promulgated by the Director or the Rhode Island Marine Fisheries Council pursuant to Chapter 20-3, entitled "Marine Fisheries Council" will remain in effect until amended or replaced. Provided, furthermore, that 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 was filed.

RULE 5. DEFINITIONS

(5.1) “Actively Fishing.” – A license holder will be considered to have been actively fishing that license/endorsement if he or she demonstrates by dated transaction records, as verified by dealer reports to the Department, that he or she has fished at least seventy-five (75) 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(e).

(5.2) “Actively Participating.” – A crew member will be considered to have been actively participating in the fishery if he or she demonstrates via one or more affidavits that he or she has fished in the fishery with one or more licensed captains at least seventy-five (75) 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.

(5.3) “Adaptive Management.” – A formal process for continually improving management policies and practices by learning from their outcomes. As applied to marine fisheries management in Rhode Island, this process will be characterized by rigorous and ongoing analysis of stakeholder values and objectives regarding the fisheries; explicit recognition of uncertainty in the decision-making process; where feasible, modeling of management options and testing of models prior to significant management; and direct feedback between management initiatives or practices and policy development.

(5.4) "Affidavit." - A sworn statement of facts made under oath as to the truthfulness therein, and made before an authorized person such as a Notary Public. For the purposes of these Rules and Regulations, affidavits must be on forms provided by the Department.

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

(5.6) “Application Deadline.” – February 28, or the first business day following February 28 if that day falls on a Saturday, Sunday, or holiday. See subsection 6.7-3(c) for additional clarifications.

(5.7) "Area Closure or Restriction." - A geographic area capable of being described by coordinates or landmarks wherein fishing for identified species of fish, shellfish or crustaceans is prohibited or restricted more stringently than is the case for the state's waters generally.

(5.8) "Authorized Individual." - An Environmental Police Officer or any other representative of the Director authorized to administer or enforce these regulations.

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

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

(5.11) "By-catch." – Fish, which have been harvested, but which are not sold or kept for personal use. It includes fish that are discarded for either economic or regulatory reasons.

(5.12) "By rule." - The promulgation of a rule or regulation in accordance with the

requirements of the Rhode Island Administrative Procedures Act (RIGL Chapter 42-35).

(5.13) "Catch Landings Limit." - Any duly adopted restriction on the amount of fish, shellfish or crustaceans that may legally be held at any one point in time or which can be legally landed during a given period of time, usually a calendar day.

(5.14) "Catch or Landings Report." - A report of required information on a given quantity of fish, shellfish or crustaceans required to be forwarded to the Department at the point in time when said fish, shellfish or crustaceans are sold by a licensed fisher to a licensed dealer. "Catch report" is the report filed by the fisher. "Landings report" is the report filed by the dealer.

(5.15) "Commercial Fishing License Review Board." - The five-member board, established within the Department and appointed by the Governor with the advise and consent of the Senate, in accordance with RIGL §20-2.1-12.

(5.16) “Commercial Fishing Vessel.” – Any vessel, boat or craft employed in the harvesting of marine species commercially, which shall first be declared with the Department.

(5.17) "Control Date." - A cut off date for potential use in establishing eligibility criteria for future access to a fishery.

(5.18) "Crew." - 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 these regulations.

(5.19) "Dealer." - A person, partnership, firm, association, or corporation licensed to barter or trade in any marine species.

(5.20) "Department." - The Rhode Island Department of Environmental Management.

(5.21) "Director." - The Director of the Rhode Island Department of Environmental Management.

(5.22) "Discards." - Fish, shellfish or crustaceans that are discarded overboard by fishers because their possession is prohibited by regulations or for economic reasons.

(5.23) “Dockside sales endorsement.” – A notation on a license or landing permit that authorizes the holder to sell live lobsters and/or crabs directly to consumers at dockside.

(5.24) “Endorsement.” – A notation on a license that indicates the right to harvest a marine species or group of similar species, the right to utilize a particular type of gear or harvesting method, or the right to sell a particular marine species or group of similar species directly to consumers at dockside, in accordance with applicable harvest and/or gear restrictions.

(5.25) “Endorsement Category.” – A marine species or group of similar species that may be legally harvested by a fisher whose license allows the taking of those species; or a gear type or harvesting method that may be legally utilized by a fisher whose license is properly endorsed.

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

(5.27) "Family Member." - 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.

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

(5.29) "Fish Trap." - Floating traps, weirs, pounds, nets, or any equivalent contrivance set on, in or anchored to the bottom or shore, used for the purpose of catching fish.

(5.30) "Fishery." - 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 stock.

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

(5.32) "Fishing Community." - Individuals, families, businesses and other entities and organizations who share common fishing interests regardless of their geographic location.

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

(5.34) "Gear." - Any device or mechanism other than a vessel employed to catch fish, shellfish or crustaceans.

(5.35) "Gear Level." - As set by regulation, the amount, type capacity and design of gear that may legally be employed in a given fishery.

(5.36) "Gill Net." - A net designed to catch fish by means of meshing or entanglement.

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

(5.38) "Harvest Level." - 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.

(5.39) "Harvesting Capacity." - The ability of a fish stock or fishery to support fishing pressure while remaining at sustainable levels, defined as Maximum Sustainable Yield (MSY).

(5.40) "Incapacity." - Death of, or injury that renders an active licensed fisher unable to fish for a period in excess of fourteen (14) days either as a result of the physical loss of function or impairment of a body part or parts, or debilitating pain.

(5.41) "Land" or "Landing." - To off-load seafood products, including, but not limited to, finfish, shellfish, and crustaceans, legally harvested outside of Rhode Island waters for sale or intended sale in Rhode Island, or to secure a vessel with the seafood products on board to a shoreside facility where the products may be off-loaded for sale or intended sale.

(5.42) "License Year." - January 1 of any given year through December 31 of the

same year.

(5.43) “Licensed Captain.” – An individual who holds or held any commercial fishing license, issued by the Department, as set forth under sections 6.8, or 6.9.

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

(5.45) “Material Incapacitation.” – A significant and verifiable event, involving either a medical condition or military service, that reasonably prevented the license holder from meeting the actively fishing standard during the two calendar years preceding the sale of the license holder’s vessel and gear. A short-term illness or injury, which cannot be reasonably construed to have prevented the license holder from meeting the actively fishing standard during the two-year period, does not constitute a material incapacitation. Material incapacitation is further defined in subsection 6.7-8(d).

(5.46) “Medical Hardship.” – An applicant’s significant medical condition that prevents them from meeting the application requirements.

(5.47) "Non-Resident." Anybody who does not present proof of Rhode Island residency.

(5.48) "Optimum Yield." - The amount of fish, with respect to yield from a fishery, which will create the greatest overall benefit to the state, particularly with respect to food production and recreational opportunities, and taking into account the protection of marine ecosystems. "Optimum Yield" is prescribed as such on the basis of the maximum sustainable yield from the fishery as reduced by any relevant economic, social or ecological factors, and in the case of an overfished fishery, provides for rebuilding to a level consistent with producing the maximum sustainable yield from such fishery.

(5.49) "Overfishing/Overfished." - A rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis.

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

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

(5.52) "Processed Products or Seafood Products." - Any fish, shellfish or crustacean that has been processed on board a fishing vessel prior to sale to a licensed dealer.

(5.53) "Quota." - 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.

(5.54) "Resident" - An individual who has had his or her principal place of residence in Rhode Island and has lived in that residence 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.

(5.55) "RIMFC." - The Rhode Island Marine Fisheries Council.

(5.56) "Rule Making." - The promulgation of a rule or regulation in accordance with the requirements of the Rhode Island Administrative Procedures Act (RIGL Chapter 42-35).

(5.57) "Sea Sampler/Observer." - A representative of the Director or the National Marine Fisheries Service authorized to accompany fishers during the act of fishing to conduct research and/or to monitor and confirm catches.

(5.58) "Season." - A period of time established by regulation during which management rules specific to that period are in effect.

(5.59) "Self-Sustaining Stock, Sustainability." - A population of a given species of fish, shellfish or crustaceans which has sufficient recruitment of new animals and survival rates for mature animals as to maintain a stable biomass over time.

(5.60) "Shellfish Dredge." - A mechanical device that is towed behind a fishing vessel and whose purpose is to collect shellfish from the sea floor.

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

(5.62) "Shellfish Transplant." - The removal of shellfish from polluted waters or bottom areas proposed to be dredged and the transport of those animals to a Management Area for harvest at a later date.

(5.63) "Transaction Records." - 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.

(5.64) "Unreasonable Hardship." - 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.

(5.65) "Vessel Declaration." - Declaration of a vessel as a commercial fishing vessel with the Department as required herein.

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

RULE 6. GENERAL MANAGEMENT AND LICENSING REGULATIONS

(6.1) Management Controls

(6.1-1) Fishery Endorsements

(a) Fishery endorsement categories shall include:

(i) Lobster;

(ii) Non-Lobster Crustacean -- all crustacean species~~, as well as horseshoe crabs,~~ available for commercial harvest, except lobster**, horseshoe crabs (biomedical), and horseshoe crabs (bait)**;

(iii) Quahaug;

(iv) Soft-shell Clam;

(v) Shellfish Other -- all shellfish species available for commercial harvest, except quahaug and soft-shell clams;

(vi) Restricted Finfish – scup **(only from May 1 through October 31; scup shall be considered Non-Restricted January 1 through April 30 and November 1 through December 31)**, summer flounder, ~~winter flounder,~~ tautog, striped bass, and black sea bass;

(vii) Non-Restricted Finfish – all species of finfish and squid available for commercial harvest except the ~~six~~ **five** species specified in the restricted finfish endorsement category**, with the inclusion of scup from January 1 through April 30 and November 1 through December 31**; and

(viii) Whelk – all whelk species available for commercial harvest.

(ix) Horseshoe crab – biomedical;

(x) Horseshoe crab - bait.

(b) By rule, the Department may add, eliminate, or modify fishery endorsement categories; in doing so, the Department will consider the status of each fishery, levels of participation by existing license holders, and the provisions of applicable fisheries management plans and programs.

(6.1-2) Harvest and Gear Levels

(a) The Full Harvest and Gear Level will apply to holders of Principal Effort Licenses for the fisheries for which they hold endorsements; and to holders of Multi-Purpose Licenses for all species.

(b) The Basic Harvest and Gear Level will apply to holders of Commercial Fishing Licenses for the fisheries for which they hold endorsements; and to holders of Student Shellfish and 65 and Over Shellfish Licenses.

(c) By rule, the Department shall set, and may periodically adjust, Full and Basic Harvest and Gear Levels on a fishery- or endorsement-specific basis, consistent with state and/or federally sanctioned fisheries management plans or programs.

(6.1-3) Regulation of Gear

(6.1-4) Times and Seasons

(6.1-5) Area Closures and Restrictions

(6.1-6) Quotas

(6.1-7) Catch and Landings Limits

(6.1-8) Limits On Entry

(a) By rule, the Department may limit entry into a fishery by license type or endorsement category, where a state and/or federally sanctioned fisheries management plan finds that fishing effort is at or exceeds sustainable levels.
(b) By rule, the Department may establish entrance/exit ratios, lotteries, waiting lists, or other allocation measures as a means for limiting entry pursuant to subsection 6.1-8(a).
(c) Any/all limits on entry for each license type and/or endorsement shall be annually prescribed herein in Rule 7.

(6.1-9) Control Dates

(a) By rule, the Department may establish control dates, which shall serve as cut-off dates for potential use in establishing eligibility criteria for future access to a fishery.
(b) Eligibility criteria may include, but are not limited to, historic participation and/or gear levels as documented by transaction records and official state or federal logbooks.
(c) The establishment of a control date is intended to promote awareness of the potential establishment of eligibility criteria for future access to a fishery and to discourage speculative shifting of effort into that fishery. To this end, the Department may give various weighted considerations to those active in the fishery before and after the control date.
(d) Establishing a control date does not commit the Department to any particular management regime or criteria for limiting future access to a fishery; however, once enacted, control dates may only be used to limit future access to a fishery in accordance with a state fisheries management plan.
(e) Control dates may only be established prospectively, unless a retroactive control date is expressly required by federal law, regulation or court decision.
(f) A control date of December 31, 2007 is established for the soft-shell clam fishery in Rhode Island.
(e) A control date of December 31, 2007 is established for the purse seine and mid-water/pair trawl fisheries in Rhode Island.

(6.1-10) Exit/Entry Ratios

(a) Restricted finfish – For every one license, eligible to harvest restricted finfish, namely, Multi Purpose Licenses and Principal Effort Licenses with a restricted finfish endorsement, that had some reported landings of restricted finfish during the prior calendar year and are retired, one new Principal Effort License with restricted finfish endorsement will be made available; provided, that if the application of the exit/entry ratio yields ~~one or two endorsements,~~ **a value less than a multiple of** three endorsements**, the number of endorsements will be rounded up** ~~will be made available~~ **to yield a multiple of three endorsements**.

(b) Quahaug -- For every two licenses, eligible to harvest quahaug, namely, Multi Purpose Licenses and Principal Effort Licenses with a quahaug endorsement, that are retired, one new Commercial Fishing License with quahaug endorsement will be made available; provided, that if the application of the exit/entry ratio yields one or two licenses/endorsements, three licenses/endorsements will be made available.

(c) Soft Shell Clam – For every five licenses, eligible to harvest soft shell clam, namely, Multi Purpose Licenses, Principal Effort Licenses with a soft shell clam endorsement, and Commercial Fishing Licenses with a soft shell clam endorsement, that are retired, one new Commercial Fishing License with soft shell clam endorsement will be made available; provided, that if the application of the exit/entry ratio yields one or two licenses/endorsements, three licenses/endorsements will be made available.

(6.1-11) Annual Promulgation of Rules

Availability of new licenses and endorsements, harvest and gear levels, regulations affecting gear, times and seasons, area closures and restrictions, quotas and catch or landings limits, limits on entry, control dates and data reporting shall be established by rule as hereinafter described on an annual basis, no later than December 1 for the following year, provided that said regulations may run for longer periods where management conditions permit, or may be adjusted more frequently where such conditions require.

(6.2) Management Plans

(6.2-1) Required

The management controls set forth in section 6.1 must be based on fishery management plans that have been adopted by the Department or by a federal agency or regional body of competent jurisdiction. Such plans may be species - or fisheries-specific or apply to whole endorsement categories.

(6.2-2) Purpose and Content

(a) The central objectives of all fishery management plans shall be (i) to prevent overfishing, while achieving on a continuous basis the maximum sustainable yield from each fishery; and (ii) to restore overfished or depleted stocks to sustainable levels.

(b) Management plans shall be responsive to, and reflective of, changing stock and fishery conditions, and thereby support an adaptive management process.

(c) Management plans shall seek to achieve the objectives set forth in subsection (a) above by establishing management measures that may include a mix of input and output controls, such as

limitations or restrictions on effort, gear, catch, areas, times, and/or seasons.

(d) Management plans shall specifically address, and make annual determinations on, the number and availability of licenses and endorsements, and the harvest and gear levels associated therewith. Such determinations shall be made in accordance with the objectives set forth in subsection (a) above, and with due regard to: (i) the social and economic well-being of fishers and fishing-dependent communities, particularly the interests of licensed residents who wish to continue fishing commercially in a manner that is economically viable; and (ii) the interests of residents who wish to fish commercially.

(e) In considering the economic and social impacts of licensing and other management measures on fishers and fishing-dependent communities, as well as on the general public, management plans shall to the maximum extent feasible employ methodologies that are consistent with those employed by the National Marine Fisheries Service.

(f) Management plans shall be based on the best scientific information available.

(g) Management plans shall consider the effectiveness of management measures in reducing by-catch, by-catch mortality, and discards.

(h) Management plans shall complement federal and regional management plans and programs and the reciprocal arrangements with other states.

(i) Management plans shall be consistent with the national standards for fishery conservation and management set forth in the Magnuson-Stevens Fishery Conservation and Management Act (16 USC, section 1851) and further delineated in RIGL §20-2.1-9(2)(iv).

(j) Management plans may take into consideration other factors that the Director deems appropriate.

(6.2-3) Procedure for Adopting

(a) Management plans shall be adopted by rule consistent with the requirements of the Administrative Procedures Act and as herein described on an annual basis no later than December 1 for the following year, provided that said plans may continue in effect for longer periods if it is determined that management conditions permit or may be adjusted more frequently if it is determined that management conditions require.

(b) Plans shall be submitted to the Rhode Island Marine Fisheries Council [RIMFC] for review and advice at least sixty (60) days prior to any Department hearing on said plans.

(c) RIMFC may recommend to the Director that a proposed plan be adopted, modified or withdrawn, and the Director may proceed to

hearing on the plan as originally proposed or as revised by RIMFC, or both, provided that in all instances both the plan as originally proposed and as recommended by RIMFC shall be entered into the hearing record.

(d) In adopting a proposed plan, the Director shall include a concise explanation of the principal reasons for its adoption and his or her response to positions entered into the hearing record.

(6.3) Emergencies

The Director may promulgate marine fisheries management rules with less than sixty (60) days notice to RIMFC if and to the extent necessary to comply with federal or regional requirements or to respond to sudden and/or imminent peril or unanticipated developments where delay would likely cause immediate harm to fishery resources or fishers pursuant to RIGL §42-35-3.

(6.4) Annual Report

(6.4-1) Content

The Director shall prepare an annual report on the conservation and management of marine fisheries resources for the General Assembly and the citizens of the State. The report will address particularly the status of fish stocks that are considered to be overfished or were so in the preceding year, the status of fisheries management plans and programs, levels of participation by existing license holders, and the availability of new licenses and endorsements. The report will also summarize available data on the value of commercial fishing in the State, and the socio-economic status of the State's fisheries.

(6.4-2) Due Date

The annual report on marine fisheries resources shall be issued no later than September 15 for the calendar year preceding.

(6.5) Use of License, Landing Permit and Vessel Declaration Fees

(6.5-1) Annual Spending Plan

(a) License and vessel declaration fees must be used by the Department in accordance with an annual spending plan adopted with the advice of RIMFC.

(b) The Department will submit its annual spending plan to RIMFC no later than September 1 for the following fiscal year.

(6.5-2) Activities Eligible For Funding

License, landing permit and vessel declaration fees are to be used by the Department for the following specific purposes:

(a) Protection and propagation of marine fish, lobsters and shellfish;
(b) Enforcement of fisheries management regulations;
(c) Shellfish transplants;
(d) Enhancement of shellfish resources through other technologies including seeding
(e) Fishing port development and construction;
(f) Staff support to and expenses incurred by RIMFC;
(g) Lease or purchase of land or conservation easements; and
(h) Technical support to and expenses incurred by the Department for purposes of managing fisheries resources generally and for the collection, processing, analysis and maintenance of data employed in support of such management.

(6.5-3) Special Projects

Beginning on July 1, 2003, a minimum of two hundred thousand dollars ($200,000) of license and vessel declaration fees shall be targeted annually to fund fishery conservation and restoration projects and/or fishery resource enhancement activities.

(6.6) Data Reporting

(6.6-1) Required

(a) The holder of any type of commercial fishing license, dealer license, or landing permit shall be deemed to have consented to providing such fishery-related information as the Department may require, including but not limited to, catch, effort, and areas fished.
(b) Applicants for commercial fishing or dealer licenses or landing permits will be provided a list of applicable reporting requirements at the time of license issuance or renewal.
(c) The Department may amend reporting requirements, no later than December 1 for the following calendar year.
(d) The license or permit of any individual who fails to report required information in a timely fashion or who files a false report shall be subject to suspension or revocation. No application for a license renewal will be accepted from a person who has failed to submit reports in a timely fashion and who has been previously notified, via certified mail, regarding the deficiency and the inability to renew if the required reports are not filed by the license application deadline.

(6.6-2) Manner of Reporting

(a) Fishers and dealers may be required to file data reports at the point of sale, and fishers may also be required to maintain logs while fishing.
(b) License holders will be informed in writing as to the form of such reports, their content, and the manner in which and frequency with

which they are required to be transmitted by December 1 for the following year.

(6.6-3) Collection and Use of Data

(a) Data will be collected, managed and disseminated according to the coastwide minimum protocols of the Atlantic Coastal Cooperative Statistics Program (ACCSP).
(b) Reported data may be used for management purposes by any properly designated State or federal agency. Reported data may only be used for enforcement purposes by a properly designated state or federal agency if specifically authorized by rule.
(c) Any data that are released or reported to the public shall be aggregated so as to not identify individual fishers, vessels or dealers.

(6.7) Licensing

(6.7-1) Information Required

Applicants for any license or permit issued under these regulations shall provide a notarized statement containing the following information:

(a) Full name;
(b) Age;
(c) Occupation;
(d) Residence address;
(e) Mailing address;
(f) Weight;
(g) Height;
(h) Hair color;
(i) Eye color;
(j) The name of any state or jurisdiction in which the applicant's commercial fishing license and/or permit is currently revoked or suspended; and
(k) Driver's License number and state of issuance, or other state-issued photo identification card.

(6.7-2) Other Requirements

(a) A license or permit must be signed and sworn to by the party to whom it is issued in order to be valid.
(b) Licenses and permits are valid only for the signed holder and may not be transferred.
(c) All fees must have been paid for a license or permit to be valid.
(d) A lost or accidentally destroyed license or permit will be replaced for a fee of ten dollars ($10.00), provided that the applicant submits an affidavit to the Department explaining the circumstances of the loss.
(e) A lost or accidentally destroyed Certificate of Exemption or permit

issued by the Department for harvest of commercial or recreational marine species shall also be replaced for a fee of ten dollars ($10.00), provided that the applicant submits an affidavit to the Department explaining the circumstances of the loss, and provided that the holder notifies the Department within seven (7) days of discovery of the loss.

(f) No application for a license renewal shall be accepted from a person whose data reports, per section 6.6, have not been submitted.

(g) Notice of change of address. Whenever any person holding any commercial fishing license shall move from the address named in his or her last application, that person shall, within ten (10) days subsequent to moving, notify the office of boat registration and licensing of his or her former and current address.

(6.7-3) Application Deadlines

(a) The Department will notify all license and permit holders in writing by November 1 that said license or permit, as well as all vessel declarations, expire on December 31 of that year. The Department will also notify all holders of Student Shellfish (if renewable), 65 and Over Shellfish, Commercial Fishing, Principal Effort, and Multi-Purpose Licenses in writing by November 1 that said licenses, along with any and all applicable endorsements, must be renewed by February 28 of the following year in order to remain valid.

(b) All notices will be sent by regular mail to the mailing address given on the license or permit holder's last license application or change of address form.

(c) All applications for Student Shellfish, 65 and Over Shellfish, Commercial Fishing, Principal Effort, and Multi-Purpose Licenses, along with any and all applicable endorsements, whether renewals or new issues, must be made in person by 4:00 PM on February 28, or on the first business day following February 28 if that day falls on a Saturday or Sunday or holiday, at the Department of Environmental Management, Office of Boat Registration and Licensing, 235 Promenade Street, Providence, 02908. Alternatively, applications must be posted to the same address with a postmark no later than the above-referenced deadline date. Alternatively, renewals must be made electronically, via the Department’s online renewal service at www.ri.gov/DEM/commercial marine, by midnight on the above-referenced deadline date. In order to be eligible to apply for a license, an application must be received, postmarked, or electronically filed by the above-referenced deadline date.

(d) No Student Shellfish, 65 and Over Shellfish, Commercial Fishing, Principal Effort or Multi-Purpose License or applicable endorsement will be issued or renewed after the close of business on February 28, or on the first day following February 28 if that day falls on a Saturday or Sunday or holiday, unless said license or endorsement was applied for consistent with the requirements of subsections 6.7-

3(c) or 6.7-3(e), or sections 6.7-8 or 6.7-9.

(e) Applications for renewal of licenses referenced in sections (c) and (d) above that are received by the Department or postmarked after February 28 or after the first day following February 28 if that day falls on a Saturday or Sunday or holiday shall be renewed only upon payment of a late fee in the amount of $200.00 and only during the sixty (60) day grace period commencing on the day immediately following the application deadline. Such renewal applications must be made in person at the Department of Environmental Management, Office of Boat Registration and Licensing, 235 Promenade Street, Providence, 02908; or via mail at the same address; or electronically via the Department's online renewal service at www.ri.gov/DEM/commercialmarine.

(f) No license or permit will be renewed unless the data reporting requirements of Section 6.6 have been met.

(6.7-4) License Renewals, Transitions and Upgrades

(a) Applicants who possessed a valid Commercial Fishing License with Lobster (resident only), Quahaug (resident only), Soft-Shell Clam (resident only), and/or Whelk (resident only) endorsements as of the immediately preceding year may obtain a Commercial Fishing License with the same endorsement(s) for the immediately following year. Other fishery endorsements on Commercial Fishing Licenses – including Non-Lobster Crustacean (resident only), Shellfish Other (resident only), ~~and~~ Non-Restricted Finfish**, Horseshoe crab (Biomedical; resident only), and Horseshoe crab (Bait; resident only)** – may be renewed without restriction. Non-resident applicants must demonstrate that their state of residence complies with the reciprocity requirements set forth under Section 6.9.

(b) Applicants who possessed a valid Principal Effort License with Lobster (resident only), Quahaug (resident only), Soft-Shell Clam (resident only), Restricted Finfish, and/or Whelk (resident only) endorsements as of the immediately preceding year may obtain a Principal Effort License with the same endorsement(s) for the immediately following year. Other fishery endorsements on Principal Effort Licenses – including Non-Lobster Crustacean (resident only), Shellfish Other (resident only), ~~and~~ Non-Restricted Finfish**, Horseshoe crab (Biomedical; resident only), and Horseshoe crab (Bait; resident only)** – may be renewed without restriction. Non-resident applicants must demonstrate that their state of residence complies with the reciprocity requirements set forth under Section 6.9.

(c) Applicants who possessed a valid Multi-Purpose License (resident only) as of the immediately preceding year may obtain a Multi-Purpose License for the immediately following year; alternatively, applicants who possessed a valid Multi-Purpose License (resident only) as of the immediately prior year may obtain a Principal Effort

License with Quahaug (resident only), Soft-Shell Clam (resident only), Shellfish Other (resident only), Lobster (resident only), Non-Lobster Crustacean (resident only), Restricted Finfish, Non-Restricted Finfish, ~~and/or~~ Whelk (resident only)**, Horseshoe crab (Biomedical; resident only), and/or Horseshoe crab (Bait; resident only)** endorsements for the immediately following year.

(d) Applicants who possessed a valid Student Shellfish License (resident only) as of the immediately preceding year, and who have been actively fishing their license, may obtain a Commercial Fishing License with a Quahaug endorsement for the immediately following year. This provision only applies to applicants who have not been cited for a violation of Rhode Island's marine fisheries laws or regulations during the two-year period preceding the date of application.

(e) Applicants who possessed a valid Commercial Fishing License with Quahaug (resident only) endorsement as of the immediately preceding year, and who have been actively fishing their endorsement, may obtain a Principal Effort License with the same endorsement for the immediately following year. This provision only applies to applicants who have not been cited for a violation of
Rhode Island's marine fisheries laws or regulations during the two-year period preceding the date of application.

(f) Applicants who possessed a valid Commercial Fishing or Principal Effort License with Quahog and/or Soft-Shell Clam endorsement and have actively fished said endorsement as of the immediately preceding year may obtain a Whelk endorsement for the immediately following year.

(g) Applicants who obtained a Principal Effort License with Lobster endorsement in 2008 or any year thereafter must continue to hold a Lobster Trap Allocation, pursuant to section 15.14 of Part XV of the marine fisheries regulations, to be eligible for renewal.

(h) Resident applicants who possessed a valid Landing Permit as of the immediately preceding year may obtain a Landing Permit for the immediately following year for any fishery, pursuant to the eligibility requirements set forth in section 6.10.

(i) Non-resident applicants who possessed a valid Landing Permit as of the immediately preceding year may obtain a Landing Permit for the immediately following year for the fishery or fisheries for which they were permitted as of the immediately preceding year, provided that in the case of Restricted Finfish, such applicants must meet the qualifications set forth in section 6.10-7. In addition, any such applicant may also obtain new Landing Permits pursuant to the eligibility requirements set forth in section 6.10.

(j) Renewal of Licenses and Landing Permits for Individuals Returning From Active Service – Anyone holding a valid license and/or landing permit at the time he or she enters active military service may have their license and/or permit renewed immediately upon returning from such service, upon presentation of written creditable

documentation, such as form DD214, demonstrating the continuity of active duty service since the license or permit had previously been obtained or renewed. The license and/or permit eligible for immediate renewal shall be the same license and/or permit held at the time the individual entered active service.

(k) The provisions of this section apply only to the license year beginning on January 1, ~~2013~~ **2014**, and the issuance of licenses pursuant to this section is subject to the license application deadlines and other requirements set forth under sections 6.7-1, 6.7-2, and 6.7-3.

(6.7-5) Issuance of New Licenses and Endorsements; Generally

(a) The Department shall issue new licenses and endorsements in accordance with the provisions of management plans, duly adopted under the provisions of section 6.2. Said plans shall be reviewed and, if necessary, updated annually to reflect changes in (i) regional or federal management plans or programs, (ii) fish stocks and fisheries, and (iii) levels of participation by existing license holders. Said plans may or may not provide for the issuance of certain new licenses or endorsements in any given year, depending on the status and economic condition of each fishery.

(b) New licenses and endorsements shall be made available as of January 1 for that year pursuant to management plans and associated rules adopted no later than December 1 of the preceding year, subject to the provisions set forth herein, and as further delineated in Rules 7 and 8 for each license year.

(c) In cases where a limited number of new licenses or endorsements are to be issued, the Department shall give priority to applicants in the order prescribed by law and as further delineated in sections 6.7-6 and 6.7-7. All eligible applicants in each priority category will be issued licenses or endorsements before any licenses or endorsements are issued to applicants in the next lower priority category. If in any priority category there are more eligible applicants than there are licenses or endorsements available for issue, those licenses or endorsements will be issued by lottery, unless otherwise specified herein.

(d) In cases where a limited number of new licenses or endorsements are to be issued, the Department will accept applications until the application deadline set forth under 6.7-3, and then issue said licenses or endorsements to eligible applicants within fifteen (15) business days following the deadline date. To ensure fairness in these cases, no new licenses or endorsements will be issued before the application deadline date.

(6.7-6) Issuance of New Licenses and Endorsements; Prioritization

(a) First priority in the issuance of new licenses with applicable endorsement(s) shall be given to (i) licensed resident fishers holding

Commercial Fishing Licenses, endorsed in the same fishery sector (see section 5.31) for which a new license/ endorsement is being sought, who have been actively fishing that endorsement, (ii) licensed resident fishers holding Principal Effort Licenses who have been actively fishing their license, and (iii) resident crew members who have been actively participating in the same fishery sector for which a new license/endorsement is being sought. One-third of the total number of new licenses with applicable endorsements will be made available to each of the three priority categories. If, in any of the categories, there are fewer eligible applicants than there are licenses/endorsements available for issue, then the balance will be evenly distributed to the other two categories. Within each category, eligible applicants will be prioritized based on the length of time, in years, they have been actively fishing their license, or actively participating in the fishery as a crew member, on a continuing basis.

(b) Second priority in the issuance of new licenses with applicable endorsement(s) shall be given to (i) licensed resident fishers holding Commercial Fishing Licenses, endorsed in any fishery sector, who have been actively fishing their license and (ii) resident crew members who have been actively participating in any fishery sector. One-half of the total number of new licenses with applicable endorsements will be made available to each of the two categories. If, in any of the categories, there are fewer eligible applicants than there are licenses/endorsements available, then the balance will be distributed to the other category. Within each category, eligible applicants will be prioritized based on the length of time, in years, they have been actively fishing their license, or actively participating as a crew member, on a continuing basis.

(c) Third priority in the issuance of new licenses with applicable endorsement(s) shall be given to any resident, aged sixteen (16) or older.

(d) Fourth priority in the issuance of new licenses with applicable (i.e., restricted finfish) endorsement shall be given to any non-resident, aged sixteen (16) or older.

(6.7-7) Issuance of New Licenses and Endorsements; Automatic Eligibility for Family Members or Crew Members of Retirees

(a) Anyone who is qualified as a priority applicant pursuant to subsections 6.7-6(a) or 6.7-6(b) may automatically obtain a Commercial Fishing License with applicable endorsement(s), or a Principal Effort License with a Restricted Finfish Endorsement, if they are the family member or crew member of a license holder (any type) who has been actively fishing and who chooses not to renew their license.

(b) The applicable endorsement(s) will be in the fishery sector(s) that was/were being actively fished by the retiring license holder.

(c) Only one new license will be issued for each one retired.

(6.7-8) Issuance of New Licenses Upon Sale of Vessel and Gear

(a) This section applies only to purchasers, of vessels and gear, who are residents.

(b) Transfer or sale of licenses and endorsements between the purchaser and seller of a vessel and gear is prohibited; provided, however, that if the seller of a vessel and gear who is actively fishing his or her license shall have first surrendered it to the Department, the Department will, upon application, issue one new license to the purchaser of the vessel and gear, pursuant to the terms and conditions of this section.

(c) The new license/endorsement(s) issued to the purchaser by the Department will generally correspond to the license/endorsement(s) that were being actively fished by the seller. The Department may, however, issue the new license/endorsement(s) at a lower harvest and gear level than the license surrendered by the seller where necessary to accomplish the purposes of the applicable management plan adopted pursuant to section 6.2. New licenses issued pursuant to this section are not subject to the application deadline provisions set forth under section 6.7-3.

(d) A seller of a vessel and gear who is unable to meet the actively fishing standard due to a material incapacitation, as defined in section 5.45, and as further described below, may seek consideration pursuant to this section, provided that all terms and conditions of this section are met.

i. In order to establish a material incapacitation on the basis of a medical condition, a seller must present evidence, in the form of notarized documentation, demonstrating that the seller or the seller's family member had a physical or mental impairment, which prevented the seller from meeting the actively fishing standard, during the two (2) calendar years preceding the sale of the vessel and gear. The physical or mental impairment must have involved inpatient care in a hospital, a nursing home, or a hospice, or outpatient care requiring continuing treatment or supervision by a health care provider. If the material incapacitation involved a family member, evidence must be presented demonstrating that the seller had a direct role in the care of the family member.

ii. In order to establish material incapacitation on the basis of military service, a seller must present appropriate documentation (namely, form DD214) establishing that he/she served, for one hundred eighty (180) or more days, either on active duty in the armed forces or as a member of a national guard or reserve component of the same, activated by order of an appropriate state or federal authority, during the two (2) calendar years preceding the sale of the vessel and gear.

iii. Sellers seeking consideration pursuant to this subsection may be required to submit additional information, as deemed necessary

by the Department, in order to establish eligibility pursuant to this subsection.

iv. A seller seeking to establish eligibility pursuant to this subsection must have actively fished his or her license, as defined in section 6.7-11, during the two (2) calendar years preceding the onset of the material incapacitation.

Option 1 – without minimum harvest requirement

(e) In addition to satisfying the requirements set forth in the definition of "actively fished" set forth in section 5.1 above, in order to permit the transfer of a vessel and gear to qualify the purchaser for consideration for the issuance of a new license/endorsement(s) that were being actively fished by the seller, it is required that documentation be presented that demonstrates to the satisfaction of the Department that:

(i) the vessel being purchased is the same "commercial fishing vessel" that satisfies the definition set forth in section 5.16 above that was owned and operated by the seller throughout the entire two (2) year period employed to establish that the vessel being transferred was "actively fished;" or

(ii) if two or more "commercial fishing vessels" as defined by section 5.16 above were owned and operated by the seller during the two (2) year period being employed to establish that the vessel being transferred was "actively fished," each of these "commercial fishing vessels" must measure 25% less in length than the other vessel, or the average of the other vessels, that is owned and operated by the seller during the entire two (2) year period employed to establish that the vessel being transferred was "actively fished."

Option 2 – with minimum harvest requirement

(e) In addition to satisfying the requirements set forth in the definition of "actively fished" set forth in section 5.1 above, in order to permit the transfer of a vessel and gear to qualify the purchaser for consideration for the issuance of a new license/endorsement(s) that were being actively fished by the seller, it is required that documentation be presented that demonstrates to the satisfaction of the Department that:

(i) the vessel being purchased is the same "commercial fishing vessel" that satisfies the definition set forth in section 5.16

above that was owned and operated by the seller throughout the entire two (2) year period employed to establish that the vessel being transferred was "actively fished;" or

(ii) if two or more "commercial fishing vessels" as defined by section 5.16 above were owned and operated by the seller during the two (2) year period being employed to establish that the vessel being transferred was "actively fished," each of these "commercial fishing vessels" must have been employed in the taking of a minimum of 25% of the total harvest taken during the two (2) year period being employed to establish that the vessel being transferred was "actively fished," and none of the "commercial fishing vessels" may measure 25% less in length than the other vessel, or the average of the other vessels, that is owned and operated by the seller during the entire two (2) year period employed to establish that the vessel being transferred was "actively fished."

(6.7-9) Issuance of New Licenses and Operator Permits Under Hardship Conditions

(a) A hardship shall be deemed to exist if a license holder who is actively fishing dies or becomes permanently or temporarily incapacitated by illness or injury so as to not be able to fish for any period in excess of fourteen (14) days.

(b) The Department will require proof of hardship in the form of a death certificate or a diagnosis and prognosis of the incapacity of the license holder signed by a medical doctor (M.D. or O.D.).

(c) In the case of permanent incapacity or death, the Department will issue, upon application, a single, new, equivalent license with applicable endorsement(s) to a member of the license holder's family who is a Rhode Island resident. That family member may be designated by the license holder or by mutual agreement among surviving family members if the license holder is deceased. Prior to issuance of the new license, the original license will be surrendered. The new license will be valid for the balance of the license year, and will be eligible for renewal pursuant to the terms and conditions set forth in section 6.7-3.

(d) In lieu of subsection 6.7-9(c), in the case of permanent incapacity or death, the Department will issue, upon application, an operator permit or equivalent license of the same category to a Rhode Island resident designated by the incapacitated license holder, or in the case of death, by the deceased individual's next of kin. Said permit or license will serve as the legal equivalent of the license held by the original licensee. Prior to issuance of the operator permit or equivalent license, the original license will be surrendered. The operator permit or equivalent license will be valid for the balance of

the license year and will be eligible for renewal once, at a cost equal to the original license, upon approval by the Director.

(e) In the case of temporary incapacity, exceeding a period of fourteen (14) days, the Department will issue, upon application, an operator permit or equivalent license of the same category to a Rhode Island resident designated by the incapacitated license holder. Said permit or license will serve as the legal equivalent of the license held by the incapacitated license holder. Prior to issuance of the operator permit or equivalent license, the original license will be suspended. The operator permit or equivalent license will remain valid for the balance of the license year, or until the return to wellness of the incapacitated license holder, whichever occurs first. The operator permit or equivalent license will be eligible for renewal once, at a cost equivalent to the cost of the original license, upon approval of the Director. Upon the return to wellness of the incapacitated license holder, the original license will, upon application, be reinstated and the operator permit or equivalent license will be surrendered.

(f) New equivalent licenses issued pursuant to this section are not subject to the application deadline provisions set forth under section 6.7-3.

(6.7-10) Requests for Reconsideration of License Denials

(a) There shall be no right to request reconsideration by the commercial fishing license review board or appeal to the department of environmental management's administrative adjudication division (AAD) for the rejection of any new license applications submitted after February 28, or any license renewal applications submitted after the sixty (60) day grace period, except in the case of a documented medical hardship as defined herein.

(b) Requests for reconsideration of license application denials in cases of medical hardship must be submitted to the Board in writing c/o the Office of Boat Registration and Licensing within ten (10) days of receipt of the denial. The request for reconsideration shall state the applicant’s name and current mailing address and state the specific reason why the denial is in error with reference to the considerations enumerated in subsection 6.7-10(g).

(c) The burden of proof shall be on the applicant to demonstrate to the Board that he or she meets the criteria for issuance of a license.

(d) A quorum of the Board shall review the denial, the request for reconsideration and additional evidence or testimony under oath or affirmation, if determined to be necessary by the Board.

(e) The Board shall render a written recommendation to the Office of Boat Registration and Licensing within thirty (30) days of the receipt of the request for reconsideration. The recommendation shall include the specific grounds for its decision and the vote of the Board. A copy of the recommendation will be mailed first class, postage prepaid, to the applicant.

(f) If a written recommendation is not rendered within thirty (30) days

as set forth above, the preliminary decision of the Office of Boat Registration and Licensing shall become final and subject to appeal pursuant to Subsection 6.7-10(i).

(g) In reaching its recommendation the Board shall consider:
   (i) the impact that issuance of the license will have on the fisheries management program overall;
   (ii) equity with other license holders;
   (iii) consistency with prior agency decisions;
   (iv) consistency with management plans;
   (v) unreasonable hardship to the applicant; and consistency with the provisions and purposes of RIGL Chapter 20-2.1 and the rules and regulations set forth herein.
   (vi) Within ten (10) days of receipt of the recommendation of the Board, the Office of Boat Registration and Licensing shall issue a written decision affirming, denying or modifying the recommendation of the Board and shall state the rationale therefore. A copy of the decision will be mailed first class, postage prepaid, to the applicant.
   (vii) The applicant may appeal the decision of the Office of Boat Registration and Licensing to the Administrative Adjudication Division for Environmental Matters pursuant to RIGL §42-17.7-1 et seq. and the procedures set forth in the Administrative Rules of Practice and Procedure of the Administrative Adjudication Division for Environmental Matters.
   (viii) The written decisions of the Board and of the Office of Boat Registration and Licensing shall be provided and made part of the administrative record upon appeal to the Administrative Adjudication Division for Environmental Matters.

(6.7-11) Demonstration and Verification of Actively Fishing and Actively Participating Standards

(a) To meet the standard of actively fishing, an applicant must be able to demonstrate by dated transaction records, and for multiple-day trips, Vessel Trip Reports, that he or she has fished at least seventy-five (75) days in the preceding two (2) calendar years, pursuant to a valid RI license (not landing permit). Such fishing activity must have spanned the preceding two (2) calendar years, meaning that some activity occurred in each of the two (2) years. Such fishing activity may need to be in the same fishery sector(s) or endorsement category(s) for which a new license/endorsement is being sought, as specified in sections 6.7-4, 6.7-6, 6.7-7, 6.7-8, and 6.7-9 herein.

(b) Transaction records, and Vessel Trip Reports, if applicable, submitted in accordance with subsection (a) above, must correspond to fisheries in which the applicant is licensed to fish commercially. Such transaction records, and Vessel Trip Reports if applicable, shall be subject to verification by the Department in accordance with dealer reports submitted to the Department via the SAFIS reporting system.

(c) To meet the standard of actively participating, an applicant must be able to demonstrate via one or more affidavits that they have worked as a crew member for one or more licensed captains for at least seventy-five (75) days in the preceding two (2) calendar years. Such activity may need to be in the same fishery sector(s) or endorsement category(s) for which a new license/endorsement is being sought, as specified in sections 6.7-6 and 6.7-7.

(d) Affidavits submitted in accordance with subsection (c) above must be on forms provided by the department and must be notarized.

(e) Affidavits submitted in accordance with subsection (c) above must reflect activity conducted upon a vessel that was commercially declared, in accordance with section 6.8-8, during the period of activity.

(f) 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. Such documentation shall include properly recorded and submitted logbooks, as well as some or all of the following: receipts pertaining to the sales of lobsters and/or crabs to consumers; income tax returns; trap tag orders; and receipts pertaining to purchases of fuel, bait, and other supplies. The Division of Fish and Wildlife shall determine whether the documentation submitted by the license holder substantiates the landings and associated fishing activity claimed by the license holder.

(g) Any applicant seeking status in accordance with this section who submits inadequate or improper documentation, such as insufficient number or type of transaction records, invalid transaction records, Vessel Trip Reports, or affidavits that have not been notarized, will not be considered. Any fraudulent submittals will be referred to the Department's Office of Law Enforcement for further investigation and possible enforcement action. Fraud on the part of any existing license holder, including a captain who signs an affidavit in support of a claim of crew member status that turns out to be false or inaccurate, may result in the suspension or revocation of the license held by the existing license holder.

(6.8) Licenses, Endorsements and Vessel Declarations; Resident

(6.8-1) Fishery Endorsements

Any Commercial Fishing or Principal Effort License issued to a Rhode Island resident pursuant to these regulations may, upon demonstration of eligibility by the applicant, be endorsed to allow participation in the following fishery sectors at levels established pursuant to Rule 8:

(a) Non-Lobster Crustacean;
(b) Lobster;
(c) Quahaug;

(d) Soft-shell clam;
(e) Shellfish Other;
(f) Non-Restricted Finfish;
(g) Restricted Finfish;
(h) Whelk;
(i) Horseshoe crab – Biomedical
(j) Horseshoe crab - Bait

(6.8-2) Commercial Fishing License

(a) Applicants must provide proof of Rhode Island residency and pay an annual fee of fifty dollars ($50), plus twenty-five dollars ($25) per fishery endorsement.
(b) At the time of application, applicants must identify the primary gear type they intend to employ during the license year. This declaration of intent is for informational purposes only and is non-binding.
(c) The holder of a Commercial Fishing License may participate in any fishery sector for which he/she holds an endorsement at Basic Harvest and Gear Levels set by the Department pursuant to Rule 8.

(6.8-3) Principal Effort License

(a) Eligible applicants must present proof of Rhode Island residency and pay an annual fee of one hundred and fifty dollars ($150) which entitles them to fish in a single fishery endorsement category.
(b) At the time of application, applicants must identify the primary gear type they intend to employ during the license year. This declaration of intent is for informational purposes only and is non-binding.
(c) The holder of a Principal Effort License may participate in any fishery sector for which he/she holds a fishery endorsement at Full Harvest and Gear Levels as set by the Department pursuant to Rule 8.
(d) The holder of a Principal Effort License may also obtain a Commercial Fishing License with applicable endorsements to fish other sectors at Basic Harvest and Gear Levels, and/or obtain additional fishery endorsements on his or her Principal Effort License to fish other sectors at Full Harvest and Gear Levels, if such endorsements are available for any given license year; provided that a license holder may not hold both a Principal Effort and Commercial Fishing License in the same fishery sector. The annual fee for additional fishery endorsements on Principal Effort Licenses is seventy-five dollars ($75) each.
(e) The holder of a Principal Effort License with a Quahaug endorsement shall not be required to pay the annual fee for that license if the license holder is at least sixty-five (65) years old as of February 28 of the applicable license year.

(6.8-4) Multi-Purpose License

(a) Eligible applicants must present proof of Rhode Island residency and pay an annual fee of three hundred dollars ($300).
(b) At the time of application, applicants must identify the fishery endorsement sector or sectors into which they intend to place significant fishing effort during the license year, as well as the primary gear type they intend to employ. These declarations of intent are for informational purposes only and are non-binding.
(c) The holder of a Multi-Purpose License may participate in all fishery endorsement sectors at Full Harvest and Gear Levels as set by the Department pursuant to Rule 8.

(6.8-5) Student Shellfish License

(a) Applicants must present proof of Rhode Island residency and pay an annual fee of fifty dollars ($50).
(b) Applicants must be no older than twenty-three (23) years as of February 28 of the license year.
(c) Applicants must present proof that they are full-time students in the form of a notarized letter or transcript from the learning institution in which they are enrolled.
(d) The holder of a Student Shellfish License may participate in the Quahaug endorsement sector at Basic Harvest and Gear Levels as set by the Department pursuant to Rule 8.
(e) The holder of a Student Shellfish License may also obtain a Commercial Fishing License and/or a Principal Effort License, with endorsements, to fish other sectors at Basic or Full Harvest and Gear Levels, if such licenses or endorsements are available for any given license year; provided that the holder of a Student Shellfish License may not also hold a Commercial Fishing or Principal Effort License with a quahaug endorsement.

(6.8-6) 65 and Over Shellfish License

(a) Applicants must present proof of Rhode Island residency.
(b) There is no fee.
(c) Applicants must be at least sixty-five (65) years old as of February 28 of the license year.
(d) The holder of a 65 and Over Shellfish License may participate in the Quahaug endorsement sector at Basic Harvest and Gear Levels, as set by the Department pursuant to Rule 8.
(e) The holder of a 65 and Over Shellfish License may also obtain a Commercial Fishing License and/or a Principal Effort License, with endorsements, to fish other fishery sectors at Basic or Full Harvest or Gear Levels, if such licenses or endorsements are available for any given license year; provided that the holder of a 65 and Over Shellfish License may not also hold a Commercial Fishing or Principal Effort License with a quahaug endorsement.

(6.8-7) Gear Endorsements

(a) Gear endorsement categories shall include Fish Trap, Gill Net, Purse Seine, and Mid Water/Pair Trawl.
(b) The Fish Trap gear endorsement shall allow the license holder to set one or more fish traps in accordance with all applicable requirements of RIGL Chapter 20-5. The annual fee shall be twenty dollars ($20) per trap location for a three year period. Applicants who possessed a valid Fish Trap gear endorsement as of the immediately preceding year may obtain a Fish Trap endorsement for the immediately following year, subject to the same terms and conditions in effect as the immediately preceding year. New fish trap endorsement opportunities shall be established by rule, pursuant to applicable management plans.
(c) The Gill Net gear endorsement shall allow the license holder to set a gill net in accordance with all applicable regulations. The annual fee shall be twenty dollars ($20). Applicants who possessed a Gill Net gear endorsement as of the immediately preceding year may obtain a Gill Net endorsement for the immediately following year. New gill net endorsement opportunities shall be established by rule, pursuant to applicable management plans.
(d) The Purse Seine and Mid Water/Pair Trawl gear endorsements shall allow the license holder to set these gear types in accordance with all applicable regulations. The holders of Purse Seine and/or Mid Water/Pair Trawl gear endorsements must consent to carry an observer on the vessel and/or on any spotter plane used as part of the operation, per the request of the Division of Fish and Wildlife; must report any/all landings of menhaden on a daily basis to the Division of Fish and Wildlife; must report beginning, location, and cessation of fishing activities on a daily basis to the Division of Enforcement; and must obtain and have on board charts showing the known locations of fixed-gear clusters, as provided by the Division of Fish and Wildlife. The annual fee for each endorsement shall be twenty dollars ($20). New Purse Seine or Mid Water/Pair Trawl endorsement opportunities shall be established by rule, pursuant to applicable management plans.
(e) By rule, the Department may add, eliminate, or modify gear endorsement categories; in so doing, the Department will consider the status of each fishery, levels of participation by existing license holders, the impact of the gear type on fishing mortality, and the provisions of applicable fisheries management plans and programs.

(6.8-8) Vessel Declaration

(a) Every vessel employed in the commercial fishery must be declared with the Department at the time the owner/operator of such a vessel first applies for or subsequently renews his/her fishing license; or if a license has already been issued, prior to that vessel being used for commercial fishing.
(b) Each such vessel must be individually and separately declared, on an

annual basis, and the required fee paid.

(c) The vessel declaration will include the name of the vessel and its owner, its length and horsepower, displacement, registration and/or federal permit number, gear type(s), principal fishery(s), and number of crew.

(d) The annual fee for a vessel declaration is twenty-five dollars ($25) per vessel for vessels up to and including twenty-five (25) feet in length, plus fifty cents (50¢) per linear foot for each whole foot over twenty-five (25) feet.

(e) A declared vessel will be issued decals, which must be prominently displayed on the port and starboard bow, or on the port and starboard sides of the console cabin or wheelhouse, or elsewhere on the port and starboard sides of the vessel such that they are readily viewable. The displayed decals must be updated annually.

(f) Declared vessels that are less than twenty-five (25) feet long may obtain a vessel declaration plate upon payment of an additional annual fee of fifteen dollars ($15). The vessel declaration of the declared vessel may be temporarily transferred to another vessel less than twenty-five (25) feet long by affixing the aforementioned plate to that vessel. For purposes of this section, "temporary" shall mean not more than sixty (60) days, with one sixty (60) day extension in any given year by permission of the Department.

(6.8-9) Dockside Sales Endorsement

(a) The endorsement shall enable the holder to sell live lobsters and crabs directly to consumers at dockside. Only live lobsters and crabs may be sold under the endorsement. Sales of shellfish and finfish to anyone other than licensed dealers are prohibited.

(b) The endorsement shall be available to all Rhode Island license and landing permit holders who are authorized to harvest and land for sale lobsters and/or crabs. With regard to lobsters, such licenses and permits shall include: multi-purpose license, principal effort license with lobster endorsement, commercial fishing license with lobster endorsement; resident and non-resident multi-purpose landing permit; and resident and non-resident crustacean landing permit. With regard to crabs, such licenses and permits shall include: multi-purpose license; principal effort license with non-lobster endorsement; commercial fishing license with non-lobster endorsement; resident and non-resident multi-purpose landing permit; and resident and non-resident crustacean landing permit.

(c) Individuals selling lobsters and crabs under the dockside sales endorsement must at all times possess, and display upon request, a current and proper license or landing permit, as set forth above; and said license or permit must include a dockside sales endorsement.

(d) Only the licensee/permittee, or a regularly employed crew member of the licensee/permittee, may sell lobsters and crabs at dockside under the dockside sales endorsement. To be eligible to conduct such sales, a crew member must first receive written authorization

from the licensee/permittee. Such authorization shall be in the form of a type-written statement, signed and dated by the licensee/ permittee, that expressly authorizes the crew member to act on behalf of the licensee/permittee with regard to dockside sales. The statement shall further specify: the name of the crew member, the name of the vessel from which the sales are conducted, and the month and year that the crew member began working on the vessel. The statement shall be kept on the vessel and be available at all times for inspection by department personnel. A crew member who is acting on behalf of a licensee/permittee in accordance with this subsection must comply with all applicable regulations governing dockside sales, as set forth herein, and the licensee/permittee shall be responsible for any violations of regulations by the crew member.

(e) Licensees/permittees offering live lobsters and crabs for sale at dockside must meet all applicable and current Federal and State laws and regulations governing harvest and possession relating to the species being sold.

(f) Licensees/permittees offering live lobsters and crabs for sale at dockside must meet all applicable and current Federal, State, and local laws and regulations governing retail sales operations, including but not necessarily limited to those governing taxation, signage, noise, and hours of operation.

(g) Licensees/permittees offering live lobsters and crabs for sale at dockside may only sell live lobsters and crabs that they harvested, and all sales must be made from the vessel that harvested the product.

(h) Sales at dockside may only be to the final consumer – i.e. the individual(s) who will be consuming the product -- and no resale of, or commercial transaction involving, the product beyond the final consumer is allowed.

(i) Licensees shall include, on all landing reports and other data submitted to the National Marine Fisheries Service and/or the department, the lobsters and crabs offered for sale at dockside to the general public.

(j) The annual fee for the dockside sales endorsement shall be twenty-five dollars ($25.00).

(k) The dockside sales endorsement is not subject to the application deadline provisions as set forth in Rule 6.7-3; as such, the endorsement shall be available at any time during the year to holders of current and proper commercial fishing licenses and landing permits issued by the department.

(6.8-10) Research Set Aside (RSA) Endorsement

(a) The RSA endorsement shall enable the holder to land marine species, for sale, in Rhode Island, in accordance with RSA quota obtained from the National Marine Fisheries Service.

(b) The endorsement shall be automatically available to anyone who obtains an Exempted Fishing Permit from the department, allowing

for the harvest and/or landing of RSA quota in Rhode Island.

(c) Both the endorsement and the permit must be obtained prior to the landing of any RSA quota for state quota monitored species in Rhode Island.

(d) Upon presentation of an approved and valid Exempted Fishing Permit from the Department, an RSA endorsement will be issued.

(e) The annual fee for the issuance of an RSA endorsement for state quota monitored species shall be twenty-five dollars ($25).

(f) The RSA endorsement is not subject to the application deadline provisions as set forth in Rule 6.7-3; as such, the endorsement shall be available at any time during the year to holders of current and proper commercial fishing licenses, and Exempted Fishing Permits, issued by the Department.

(6.8-11) Paper Catch and Effort Harvester and Dockside Sales Logbooks Endorsement

(a) The logbook endorsement shall enable the holder to obtain paper logbooks, printed by RIDFW, that will be used to report all catch and effort information required by RIGL 20-4-5.

(b) The endorsement shall be automatically available to anyone who holds a multipurpose fishing license, commercial fishing license with restricted or non-restricted finfish, lobster or non-lobster crustacean, horseshoe crab – biomedical, horseshoe crab - bait or whelk endorsements, or a principle effort license with restricted or non-restricted finfish, lobster or non-lobster crustacean, horseshoe crab – biomedical, horseshoe crab - bait or whelk endorsements.

(c) By default, if the logbook endorsement is not purchased, license holders are required to electronically report all catch and effort and dockside sales data to the eTRIPS application of the Standard Atlantic Fisheries Information System (SAFIS).

(d) Paper logbook submissions will not be accepted by RIDFW to meet the license holder's reporting requirement from any license holder who does not obtain the logbook endorsement.

(e) All trips via electronic or paper recording, are required to be filled out at the end of each day fished, and both trip reports and did not fish reports are due to the Division of Fish and Wildlife quarterly.

(f) The annual fee for the issuance of a logbook endorsement shall be twenty-five dollars ($25).

(g) The logbook endorsement is not subject to the application deadline provisions as set forth in Rule 6.7-3; as such, the endorsement shall be available at any time during the year to holders of current and proper commercial fishing licenses issued by the Department.

(6.9) Licenses, Endorsements and Vessel Declarations; Non-Resident

(6.9-1) Non-Resident Fishery Endorsements

Any Commercial Fishing or Principal Effort License issued to a non-

resident pursuant to these regulations may, upon demonstration of eligibility by the applicant, be endorsed to allow participation in the following fishery sectors at levels established pursuant to Rule 8:

(a) Non-Restricted Finfish;
(b) Restricted Finfish.

(6-9-2) Non-Resident Commercial Fishing License

(a) Applicants must be at least eighteen (18) years old.
(b) The holder of a Non-Resident Commercial Fishing License may participate in either or both fishery sectors for which he/she holds an endorsement, provided that his/her state of residence does not prohibit commercial licensing opportunities for Rhode Island residents in finfish fisheries for which licensing opportunities are available for residents of that state.
(c) The Marine Fisheries section of the Department of Environmental Management, Division of Fish and Wildlife shall annually review the regulations of the states of Massachusetts, Connecticut, and New York to determine whether those states provide Rhode Island residents the privileges referenced in subsection (b) above. For applicants from any other state, it shall be the applicant's burden to prove that his/her state of residence provides Rhode Island residents the privileges referenced in subsection (b) above through a certified copy of the relevant regulation. This copy is to be forwarded to the Marine Fisheries section of the Department of Environmental Management, Division of Fish and Wildlife for review and approval a minimum of two weeks before a license may be issued.
(d) At the time of application, applicants must identify the primary gear type they intend to employ during the license year. This declaration of intent is for informational purposes only and is non-binding.
(e) The annual fee for a Non-Resident Commercial Fishing License shall be one hundred and fifty dollars ($150) plus fifty dollars ($50) per endorsement.

(6.9-3) Non-Resident Principal Effort License;

(a) Eligible applicants must demonstrate that their state of residence complies with section 6.9-2(b) regarding treatment of Rhode Island residents.
(b) The holder of a Non-Resident Principal Effort License may harvest, land and sell any species of fish for which he/she holds the appropriate endorsement(s) -- Restricted and/or Non-Restricted Finfish -- at Full Harvest and Gear Levels established pursuant to Rule 8.
(c) At the time of application, applicants must identify the primary gear type they intend to employ during the license year. This declaration of intent is for informational purposes only and is non-binding.

(d) The annual fee for a Non-Resident Principal Effort License shall be four hundred dollars ($400), plus one hundred dollars ($100) per endorsement.

(6.9-4) Non-Resident Vessel Declaration

(a) Applicants must comply with the requirements of subsection 6.8-8, provided that temporary transfers of vessel declarations between vessels less than twenty-five (25) feet in length via vessel declaration plates are not permitted.
(b) The fee for a Non-Resident Vessel Declaration shall be fifty dollars ($50), plus one dollar and fifty cents ($1.50) for each whole foot over twenty-five (25) feet in length overall.

(6.10) Landing Permits

(6.10-1) General Requirements

(a) A Landing Permit or a valid Rhode Island Resident or Non-Resident Licenses with the appropriate fishery endorsements, but not both a permit and license, is required to off-load any seafood product legally harvested outside of Rhode Island waters for sale or intended sale in Rhode Island, or to secure a vessel with the seafood products on board to a shoreside facility where the products may be off-loaded for sale or intended sale.
(b) If the operator of a vessel carrying seafood products notifies the Department's Division of Law Enforcement at least four hours before entering Rhode Island waters that he/she intends to dock in a Rhode Island port for specified purposes other than landing, selling, or offering that seafood for sale, and if permission to do so is first obtained from the Division of Law Enforcement, no landing permit or Rhode Island license is required.
(c) The Department will issue a Landing Permit upon proof that an applicant holds a valid federal or non-Rhode Island state license or permit(s) to harvest a given species or group of similar species, provided that the Landing Permit so issued will only allow the landing of those species authorized by said federal or state permit.
(d) A Landing Permit is issued to an individual and not a vessel, although the vessel(s), which will generate the landings, must be identified. The landing permit may not be transferred and does not attach to a vessel when it is sold.
(e) The individual in charge of a vessel subject to this section must be in possession of a Landing Permit issued to that individual in order for that vessel to legally enter Rhode Island waters.
(f) Landing permits are not subject to the application deadline provisions set forth under section 6.7-3.

~~(6.10-2) Resident Finfish Landing Permit~~

~~(a) The holder of a Resident Finfish Landing Permit may land, sell, or offer for sale finfish species, in accordance with all applicable rules and regulations governing those species.~~

~~(b) The annual fee for a Resident Finfish Landing Permit is two hundred dollars ($200).~~

~~(6.10-3) Resident Shellfish Landing Permit~~

~~(a) The holder of a Resident Shellfish Landing Permit may land, sell, or offer for sale surf clams, blue mussels, ocean quahaugs, or sea scallops, including processed products, in accordance with all applicable rules and regulations governing those species and products.~~

~~(b) The annual fee for a Resident Shellfish Landing Permit is two hundred dollars ($200).~~

~~(6.10-4) Resident Crustacean Landing Permit.~~

~~(a) The holder of a Resident Crustacean Landing Permit may land, sell, or offer for sale any crustacean species, including lobster, in accordance with all applicable rules and regulations governing those species.~~

~~(b) The annual fee for a Resident Crustacean Landing Permit is two hundred dollars ($200).~~

(6.10-5) Resident ~~Multi-Purpose~~ Landing Permit

(a) The holder of a Resident ~~Multi-Purpose~~ Landing Permit may land, sell, or offer for sale any marine fishery species or product, in accordance with all applicable rules and regulations governing those species.

(b) The annual fee for a Resident ~~Multi-Purpose~~ Landing Permit is three hundred dollars ($300).

~~(6.10-6) Resident Miscellaneous Landing Permit~~

~~(a) The holder of a Resident Miscellaneous Landing Permit may land, sell or offer for sale any species or seafood products not specified elsewhere in this subsection, in accordance with all applicable rules and regulations governing those species and products.~~

~~(b) The annual fee for a Miscellaneous Landing Permit is two hundred dollars ($200).~~

(6.10-7) Non-Resident ~~Restricted Finfish~~ Landing Permit **with Restricted Finfish**

(a) The holder of a Non-Resident ~~Restricted Finfish~~ Landing Permit **with Restricted Finfish** may land, sell, or offer for sale restricted

finfish species, in accordance with all applicable rules and regulations governing those species.

(b) The annual fee for Non-Resident ~~Restricted Finfish~~ Landing Permit **with Restricted Finfish** is ~~four~~ **six**hundred dollars ($~~400~~ **600**); however, this fee shall be waived if the applicant also obtains a Non-Resident Multi-Purpose License.

(c) New Non-Resident Restricted Finfish Landing Permits will only be issued if the landing is charged to the quota of the state in which the vessel making the landing is registered or documented; or, if the state where the vessel making the landing is registered or documented allows Rhode Island residents to land against its quota for that species; or, if the Department pursuant to a duly adopted fisheries management plan determines there to be excess harvesting capacity in the Rhode Island commercial quota for that species.

(d) Renewal of Non-Resident Landing Permits for restricted finfish are considered to be new permits subject to the provisions of subsection 6.10-7(c) unless the applicant can show evidence of Rhode Island landings of more than one thousand pounds of that species per year in four of the five years preceding the application. Having made that demonstration, a holder of a Non-Resident Landing Permit for a restricted species who held that permit as of the immediately preceding year may renew it for the immediately following year as set forth herein.

(e) If a non-resident vessel is upgraded by twenty percent (20%) or more in length, displacement or horsepower, renewal of a Landing Permit for restricted finfish will be considered a new permit application, issuance of which is subject to the requirements of subsection 6.10-7(c).

~~(6.10-8) Non-Resident Non-Restricted Finfish Landing Permit~~

~~(a) The holder of a Non-Resident Non-Restricted Finfish Landing Permit may land, sell, or offer for sale non-restricted finfish species, in accordance with all applicable rules and regulations governing those species.~~

~~(b) The annual fee for a Non-Resident Non-Restricted Finfish Landing Permit is four hundred dollars ($400);~~

~~(6.10-9) Non-Resident Shellfish Landing Permit~~

~~(a) The holder of a Non-Resident Shellfish Landing Permit may land, sell, or offer for sale surf clams, blue mussels, ocean quahaugs, or sea scallops, including processed products, in accordance with all applicable rules and regulations governing those species and products.~~

~~(b) The annual fee for a Non-Resident Shellfish Landing Permit is four hundred dollars ($400).~~

~~(6.10-10) Non-Resident Crustacean Landing Permit.~~

~~(a) The holder of a Non-Resident Crustacean Landing Permit may land, sell, or offer for sale any crustacean species, including lobster, in accordance with all applicable rules and regulations governing those species.~~

~~(b) The annual fee for a Non-Resident Crustacean Landing Permit is four hundred dollars ($400).~~

(6.10-11) Non-Resident ~~Multi-Purpose~~ Landing Permit

(a) The holder of a Non-Resident ~~Multi-Purpose~~ Landing Permit may land, sell, or offer for sale any marine fishery species or product, except restricted finfish, in accordance with all applicable rules and regulations governing those species and products.

(b) The annual fee for a Non-Resident ~~Multi-Purpose~~ Landing Permit is six hundred dollars ($600).

~~(6.10-12) Non-Resident Miscellaneous Landing Permit~~

~~(a) The holder of a Non-Resident Miscellaneous Landing Permit may land, sell or offer for sale any species or seafood products not specified elsewhere in this section, in accordance with all applicable rules and regulations governing those species and products.~~

~~(b) The annual fee for a Miscellaneous Landing Permit is four hundred dollars ($400).~~

(6.11) Dealer's Licenses

(6.11-1) General Requirements

(a) No person, partnership, firm, association, or corporation shall sell, purchase, barter or trade in any marine fisheries species unless having first obtained a dealer's license as provided for in this section for the applicable fishery; or unless the activity is exempt from licensing requirements as set forth in subsection (b) below.

(b) Any person, partnership, firm, association, or corporation engaged solely in the business of selling seafood to consumers, either directly or through restaurants or other retail outlets, and/or engaged solely in the processing or preparation of seafood for sale directly to consumers, is not required to be licensed under these regulations, provided that such person, partnership, firm, association, or corporation purchases or otherwise acquires said seafood from licensed dealers.

(c) Applicants for a dealer's license shall complete such forms containing such information as the Department may require.

(d) Applicants for a dealer's license must demonstrate that they or their registered agent maintain a fixed place of business in the State of Rhode Island at which transaction records will be maintained and

made available for inspection during normal business hours.

(e) Each license is valid for the calendar year in which it is issued upon payment of the required fee.

(f) A duly licensed dealer may transport any marine species otherwise subject to the requirement that a person transporting such species carry a Rhode Island commercial fishing license, so long as that dealer can demonstrate by a bill of lading that the fish in question had been sold by a duly licensed person.

(6.11-2) Multi-Purpose Dealer's License

(a) The holder of a Multi-Purpose Dealer's License may buy and sell all wild marine fisheries species that may legally be landed in Rhode Island, but only in the amounts specified by rule. Licensed multi-purpose dealers may also buy and sell cultured marine fisheries species in accordance with applicable rules and regulations.

(b) The annual fee is three hundred dollars ($300).

(6.11-3) Finfish Dealer's License

(a) The holder of a Finfish Dealer's License may buy and sell all wild finfish species that may legally be landed in Rhode Island, but only in the amounts specified by rule. Licensed finfish dealers may also buy and sell cultured finfish species in accordance with applicable rules and regulations.

(b) The annual fee is two hundred dollars ($200).

(6.11-4) Shellfish Dealer's License

(a) The holder of a Shellfish Dealer's License may buy and sell all wild shellfish species that may legally be landed in Rhode Island, but only in the amounts specified by rule. Licensed shellfish dealers may also buy and sell cultured shellfish species in accordance with applicable rules and regulations.

(b) The annual fee is two hundred dollars ($200).

(6.11-5) Lobster Dealer's License

(a) The holder of a Lobster Dealer's License may buy and sell all wild crustacean species, including lobster, that may legally be landed in Rhode Island, but only in the amounts specified by rule. Licensed lobster dealers may also sell cultured crustacean species in accordance with applicable rules and regulations.

(b) The annual fee is two hundred dollars ($200).

(6.12) Penalties

(6.12-1) Violations

(a) Violations of these regulations may subject the violator to the revocation or suspension of any license, endorsement or permit issued pursuant thereto.
(b) Revocations or suspensions may be appealed to the Administrative Adjudication Division.

(6.12-2) False Statements

(a) Any person who willfully misrepresents any fact or facts required to be provided in support of any license, endorsement, or permit application provided for herein, or who is party to such willful misrepresentation, shall be punished by a fine of not more than fifty dollars ($50).
(b) Any license, endorsement, or permit obtained as a result of such false statements or misrepresentations shall be null and void and shall be surrendered to the Department forthwith.
(c) No new license, endorsement, or permit may be issued to any violator of this section for a period of one (1) year from the date that penalties are imposed.

(6.12-3) Alterations, Forgeries and Counterfeits

(a) Any person who falsely makes, alters, forges, or counterfeits, or who causes to be falsely made, altered, forged or counterfeited, a license, endorsement, or permit issued pursuant to these regulations, or who shall have in his or her possession such a license, endorsement, or permit, knowing it to be false, altered, forged or counterfeit is guilty of a misdemeanor and subject to a fine of not more than five hundred dollars ($500) and imprisonment for not more than ninety (90) days, or both.
(b) No new license endorsement or permit may be issued to any violator of this section for a period of one (1) year from the date that penalties are imposed.

(6.12-4) Failure to Possess, Present or Display a Proper License, Permit or Vessel Declaration

(a) Any person who fails to possess a valid, properly endorsed license, permit, or vessel declaration while engaged in commercial fishing, or fails or refuses to present or display said license, permit or endorsement upon request by individuals authorized by the Director, shall be guilty of a misdemeanor and subject to a fine of not more then five hundred dollars ($500) and imprisonment for not more than ninety (90) days, or both. Any such person may also be subject to the seizure and forfeiture provisions under RIGL §§20-1-8 and 20-1-8.1.
(b) Expiration. Unless otherwise specified in this title, all licenses

issued under this chapter shall be annual and shall expire on December 31 of each year. It shall be unlawful for any person to fish commercially in Rhode Island waters on an expired license application. The grace period set forth in Subsection 6.7-3(e) shall not extend the validity of any expired license.

RULE 7. AVAILABILITY OF NEW LICENSES AND ENDORSEMENTS FOR ~~2013~~ **2014**

(7.1) Multi-Purpose Licenses

No new Multi-Purpose Licenses shall be available for ~~2013~~ **2014**, except pursuant to sections 6.7-8 and 6.7-9.

(7.2) Principal Effort Licenses

(a) A limited number of new Principal Effort Licenses with Restricted Finfish endorsements will be available for ~~2013~~ **2014** for qualified applicants pursuant to the exit/entry ratio set forth in section 6.1-10 and the prioritization process established in sections 6.7-6 and 6.7-7 and the Management Plan for the Finfish Sector.

(b) No other new Principal Effort Licenses shall be available for ~~2013~~ **2014**, except pursuant to sections 6.7-8 and 6.7-9.

(c) For applicants obtaining Principal Effort Licenses via renewal, the following new endorsements, in addition to the one(s) they qualify for, will be available: Non-Lobster Crustacean (resident only), Shellfish Other (resident only), ~~and~~ Non-Restricted Finfish, **Horseshoe crab- biomedical (resident only), and Horseshoe crab- bait (resident only)**.

(7.3) Commercial Fishing Licenses

(a) New Commercial Fishing Licenses shall be available to any resident or non-resident, provided that all applicable application requirements are met.

(b) The following new endorsements will be available to all holders of Commercial Fishing Licenses: Non-Lobster Crustacean (resident only), Shellfish Other (resident only), ~~and~~ Non-Restricted Finfish, **Horseshoe crab- biomedical (resident only), and Horseshoe crab- bait (resident only)**.

(c) A limited number of new Commercial Fishing Licenses with Quahaug and Soft-Shell Clam endorsements will also be available for ~~2013~~ **2014** for qualified applicants pursuant to the exit/entry ratios set forth in section 6.1-10 and the prioritization process established in sections 6.7-6 and 6.7-7 and the Management Plan for

the Shellfish Sector.

(7.4) Student and 65 and Over Shellfish Licenses

New Student and 65 and Over Shellfish Licenses shall be available to any Rhode Island resident, provided that all applicable application requirements are met.

(7.5) Fish Trap Endorsements

No new Fish Trap gear endorsements shall be available for ~~2013~~ **2014**, unless specified via separate regulatory action undertaken by the Director in accordance with RIGL Chapter 20-5.

(7.6) Gill Net Endorsements

No new Gill Net gear endorsements shall be available for ~~2013~~ **2014**, except pursuant to sections 6.7-8 and 6.7-9 if deemed applicable by the Director.

(7.7) Purse Seine Endorsements and Mid Water/Pair Trawl Endorsements

New Purse Seine and Mid-Water/Pair Trawl Endorsements will be issued annually, pursuant to subsection 6.8-7(d).

(7.8) Whelk Endorsements

No new Whelk endorsements shall be available for ~~2013~~ **2014**, except pursuant to subsection 6.7-4(f).

RULE 8. HARVEST AND GEAR LEVELS FOR ~~2013~~

2014

(8.1) Full Harvest and Gear Levels

(a) The Full Harvest and Gear Levels, applicable to all holders of Principal Effort Licenses for the fisheries for which they hold endorsements, and to all holders of Multi-Purpose Licenses, shall be the same harvest and gear restrictions in effect for all marine species available for commercial harvest during the license year, subject to modification, by rule, in accordance with the State's marine fisheries management program.

(b) For lobsters, the full harvest and gear level shall be the number of lobster traps authorized and specified by the license holder's Lobster Trap Allocation, issued in accordance with section 15.14 of Part XV of the marine fisheries regulations. If using gear other than traps, the full

harvest and gear level shall be the non-trap landing limits set forth in section 15.18 of Part XV of the marine fisheries regulations.

(8.2) Basic Gear and Harvest Levels

The Basic Harvest and Gear Levels, applicable to all holders of Commercial Fishing Licenses for the fisheries for which they hold endorsements, and to all holders of Student Shellfish and 65 and Over Shellfish Licenses, shall be as follows:

(8.2-1) Lobster
The same restrictions associated with the Full Harvest and Gear Level for Lobster.

(8.2-2) Non-Lobster Crustacean
The same restrictions associated with the Full Harvest and Gear Level for Non-Lobster Crustacean.

(8.2-3) Quahaug
A 3-bushel per day statewide limit, including all management areas, in addition to all other restrictions associated with the Full Harvest and Gear Level for Quahaug.

(8.2-4) Soft-shell Clam
The same restrictions associated with the Full Harvest and Gear Level for Soft-shell Clam.

(8.2-5) Shellfish Other
The same restrictions associated with the Full Harvest and Gear Level for Shellfish Other.

(8.2-6) Non-Restricted Finfish
The same restrictions associated with the Full Harvest and Gear Level for Non-Restricted Finfish.

(8.2-7) Whelk
The same restrictions associated with the Full Harvest and Gear level for Whelk.

(8.2-8) Horseshoe crab - Biomedical
The same restrictions associated with the Full Harvest and Gear level for Horseshoe crab - Biomedical.

(8.2-9) Horseshoe crab - Bait
The same restrictions associated with the Full Harvest and Gear level for Horseshoe crab - Bait.

RULE 9 RECREATIONAL SALTWATER FISHING LICENSES

(9.1) General Provisions

(a) It shall be unlawful for any person to fish or spearfish recreationally for finfish or squid in the marine waters of Rhode Island without a valid and current recreational saltwater fishing license.

(b) For the purpose of this section, an individual will be considered to be fishing or spearfishing recreationally if they are engaged in the process of angling via the use of any type of hook and line, or spearfishing via the use of any type of spear or powerhead, or if they possess equipment used for angling or spearfishing and are in possession of finfish or squid.

(c) A valid and current recreational saltwater fishing license may include: a RI recreational saltwater fishing license, a recreational saltwater fishing license from a reciprocal state, or a national saltwater angler registration.

(d) Reciprocal states are listed at saltwater.ri.gov.

(e) Anglers and spearfishers must be in possession of, or within close proximity to, their license at all times while engaged in angling or spearfishing. The term close proximity shall be construed to mean aboard a vessel, on which or from which an individual is angling or spearfishing; or, for shore-based anglers, or spearfishers, within a nearby car or other location that is within walking distance from the point of exit from the water.

(f) Anglers and spearfishers shall present a valid and current recreational saltwater fishing license for inspection upon demand by an authorized law enforcement officer.

(g) Failure to meet the terms of this section shall be deemed a violation, subject to the penalties set forth under RIGL section 20-2.2-8.

(9.2) Exemptions

(a) No license is required for: anglers or spearfishers who are under 16 years of age; anglers or spearfishers on party or charter boats that are licensed in accordance with RIGL section 20-2-27.1; licensed party or charter boat operators when fishing in party/charter mode; anglers or spearfishers who are on leave from active military duty; anglers or spearfishers who are blind or permanently disabled; anglers or spearfishers who hold federal Highly Migratory Species Angling Permits, issued under their name of the angler or spearfisher; anglers or spearfishers who are fishing or spearfishing during a free-fishing day, designated by the director; or anyone who is fishing commercially in accordance with a current and valid commercial fishing license.

(b) Where appropriate, anglers or spearfishers who are exempt shall carry applicable proof, and present such proof, along with a photo ID, upon demand by an authorized law enforcement officer.

RULE 10 VESSEL-BASED REGULATIONS

(10.1) Vessels Fishing Recreationally

(a) Any vessel – including a commercially declared and/or licensed party/charter vessel – may fish in recreational mode, in accordance with all applicable recreational regulations.

(b) With regard to all species that are not subject to per-vessel restrictions, compliance with possession limits while fishing in recreational mode shall be determined by dividing the total number of fish aboard the vessel by the total number of licensed or exempt recreational fishers or spearfishers aboard the vessel.

(c) If a vessel makes more than one trip in recreational mode per day, the catches attributable to the same licensed or exempt fishers or spearfishers who go out again are cumulative.

(10.2) Party/Charter Vessels

(a) Only party/charter vessels licensed in accordance with RIGL section 20-2-27.1 may fish in party/charter mode.

(b) A vessel is fishing in party/charter mode whenever the vessel is carrying one or more passengers for hire for the purpose of engaging in recreational fishing or spearfishing.

(c) Vessels fishing in party/charter mode must adhere to all applicable recreational, or party/charter, regulations.

(d) With regard to all species that are not subject to per-vessel restrictions, compliance with possession limits while fishing in `party/charter mode shall be determined by dividing the total number of fish aboard the vessel by the total number of recreational fishers or spearfishers aboard the vessel.

(e) If a vessel makes more than one trip in party/charter mode per day, the catches attributable to the captain and mate are cumulative.

(10.3) Vessels Fishing Commercially

(a) Only vessels that are commercially declared, pursuant to section 6.8-8 herein, may fish in commercial mode.

(b) A vessel is fishing in commercial mode whenever the vessel is engaged in the process of taking, harvesting, holding, transporting, loading or off-loading marine species for sale or intended sale.

(c) Vessels fishing in commercial mode must adhere to all applicable commercial regulations.

(d) Vessels making more than one commercial trip per calendar day are bound by all applicable per-vessel, per-day possession limits.

(e) Vessels making more than one commercial trip per calendar day must have onboard a RI catch and effort logbook or a federal VTR, and the logbooks or VTRs must be completed prior to the initiation of the second commercial or recreational fishing trip on the same day. An exemption from carrying the RI catch and effort logbook shall be granted for vessels which are operated by licensed captains

who are enrolled and currently active participants in the eTrips electronic reporting program. The eTrips report of the first commercial or recreational fishing trip must be entered prior to the initiation of the second commercial or recreational fishing trip on the same day.

(f) A commercially declared vessel, fishing in commercial mode, may not possess or land more than the per-vessel limit; however, a portion of the catch may be retained for (non-commercial) personal use, provided that the amount of fish retained for personal use must be recorded in the licensee's commercial logbook.

(g) Any vessel fishing commercially, including any vessel fishing commercially using rod and reel, may utilize, without restriction, any number of unlicensed crew members to assist with any commercial operations.

(h) For all commercial fisheries except shellfish, any number of unlicensed crews may assist in direct commercial harvest operations regardless of the manner, method or contrivance employed, as long as said crew is/are located onboard a commercially declared vessel that is operated by an individual who possesses a valid and proper commercial fishing license and is/are under the direct supervision and responsibility of said properly licensed commercial fisher. With respect to commercial shellfish operations, unlicensed crews may only assist with culling activities and other indirect harvest operations, while said crew is/are located onboard a commercially declared vessel that is operated by an individual who possesses a valid and proper commercial fishing license and is/are under the direct supervision and responsibility of said properly licensed commercial fisher.

(10.4) Vessels Fishing in More Than One Mode

(a) On a per-trip basis, a vessel may only fish in recreational mode, or party/charter mode, or commercial mode. No vessel may fish in more than one mode during the same trip.

(b) A vessel that is commercially declared, pursuant to section 6.8-8 herein, may fish in commercial mode during one portion of a calendar day and fish in recreational or party/charter mode during a separate trip on the same day, subject to separate and non-overlapping commercial and recreational, or party/charter, regulations. A vessel that fishes first commercially must complete their logbook prior to the initiation of the second trip.

(c) Upon boarding or inspection, the captain or operator of a commercially declared vessel must disclose whether the vessel is operating in commercial mode or party/charter mode or recreational mode.

RULE 11 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.

RULE 12 EFFECTIVE DATE

The foregoing Commercial Fishing Licensing Regulations after due notice, are hereby amended and filed with the Secretary of State this **28th** ~~**day of February, 2013**~~ **(new date)** to become effective 20 days after filing, unless otherwise indicated, in accordance with the provisions of Chapters 20-1-2, 20-1-4, 20-3-2 through 20-3-6, 20-4, 20-2.1-1 through 20-2.1-13, 20-5-1 through 20-5-21, 20-10, 42-35, 42-17.1, 42-17.6 of the General Laws of Rhode Island of 1956, as amended.

Janet L. Coit, Director
Department of Environmental Management

Public Notice: ~~08/09/2012~~ **08/19/2013**
Public Hearing: ~~09/12/2012~~ **09/18/2013**

Filing Date: ~~02/28/2013~~
Effective Date: ~~11/28/2012~~

~~ERLID # 7240~~
~~Technical Revision~~