STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

BUREAU OF NATURAL RESOURCES
FISH AND WILDLIFE
&
LAW ENFORCEMENT

RHODE ISLAND MARINE FISHERIES STATUTES AND REGULATIONS

Part XI
Commercial Fisheries

December 8, 2009

AUTHORITY: These regulations are adopted pursuant to Chapters 42-17.1, 42-17.6, 20-4 through 20-10, and sections 20-1-2, 20-1-4, and 20-3-2 through 20-3-6, in accordance with Chapter 42-35 of the Rhode Island General Laws of 1956, as amended.

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PURPOSE

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

AUTHORITY

These rules and regulations are promulgated pursuant to Chapter 42.17.1, 42-17.6, 20-1-2, 20-1-4, 20-3-2 thur 20-3-6, 20-4 thru 20-10 and in accordance with Chapter 42-35, Administrative Procedures, of the General Laws of 1956, as amended.

ADMINISTRATIVE FINDINGS

Rules and regulations are based upon the need to modify existing regulations (RIGL 20-3-2 through 20-3-6).

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.

DEFINITIONS

See Rhode Island Marine Statutes and Regulations, Part I, ' 1.3.

SEVERABILITY

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

SUPERSEDED RULES AND REGULATIONS

On the effective date of these rules and regulations, all previous rules and regulations, and any policies regarding the administration and enforcement of Part XI shall be superseded. However, any enforcement action taken by, or application submitted to, the Department prior to the effective date of these Rules and Regulations shall be governed by the Rules and Regulations in effect at the time the enforcement action was taken, or application filed.

PART XI - COMMERCIAL FISHERIES

11.1 Commercial Fishing -- No person shall engage in the taking for sale by any manner, method, or contrivance, of any marine finfish, shellfish, crustacean, or other invertebrate; and no vessel, boat, trap, seine, or other fishing gear shall be used in the taking for sale of any marine finfish, shellfish, crustacean, or other invertebrate unless a license therefor has been obtained as provided in this Title. (RIGL 20-4-1) [Penalty - Part 1.16; (RIGL 20-1-16)]

Otter Trawls, Pair Trawls, and Beam Trawls

11.2 Areas Prohibited -- Unless otherwise specified in regulations adopted by the Marine Fisheries Council, and except for those areas described in § 20-4-3 *(Part 11.4)*, no person shall operate a beam, pair, or otter trawl or other mechanical trawling device in the Sakonnet River, Narragansett Bay, in Point Judith Pond, so-called, in the towns of Narragansett and South Kingstown, or the Harbor of Refuge, so-called, in the town of Narragansett, or in Potter Pond, so-called, in the town of South Kingstown, or in Great Salt Pond, so-called, in the town of New Shoreham. (RIGL 20-4-2) [Penalty 20-1-16]

11.3 Areas Allowed -- Any duly licensed resident commercial fisherman and a nonresident commercial fisherman licensed pursuant to § 20-2-28, may operate otter, beam, or pair trawls, or other mechanical trawling device subject to rules and regulations of the Marine Fisheries Council, in the area of Narragansett Bay and Sakonnet River south of a line, extending from [a DEM marker at] Spink Neck in the town of North Kingstown in a northeasterly direction to [a DEM marker at] Pine Hill Point on Prudence Island and from a point at Homestead Dock on the easterly shore of Prudence Island, thence northeasterly to Hog Island shoal light, thence to the north abutment of Mt. Hope Bridge in the town of Bristol, and south of a line extending from McCurry Point, so-called, on the east side of the town of Portsmouth northeasterly in a line to the southerly point of Jack's Island, so-called, in the town of Tiverton. The area subject to this section may be changed by rules and regulations adopted by the Marine Fisheries Council. (RIGL 20-4-3) [Penalty - Part 1.16; (RIGL 20-1-16)]

NOTE: Also refer to Parts 11.4, 11.14, and 11.19

11.4 Penalties -- Any person who operates an otter, beam, or pair trawl, or other mechanical trawling device without a license as provided in 20-4-3 shall, upon conviction, be fined five hundred dollars ($500) for each offense or may be imprisoned not exceeding thirty (30) days, or both. In addition to any fines imposed for failure to secure a license, the person shall be subject to the same penalties as set forth in §20-1-16 should the person set a beam, pair, or otter trawl, or other mechanical trawling device in areas prohibited by §20-4-2 or rules adopted under this section. (RIGL 20-4-4)

<u>11.5</u> <u>Seines, Fyke Nets, and Trawling Regulations in Ponds and Rivers</u> -- It shall be illegal to set, haul, and/or maintain a seine along the shoreline within one half (½) mile in both directions of the seaward entrance to any of the ponds and rivers listed below when the area is open to the sea. This seining prohibition shall also extend seaward for a distance of three hundred (300) yards. The following areas shall be covered by this regulation: Quicksand Pond and channel, Tunipus Pond and channel, Cards Pond and channel, Trustom Pond and channel, Quonochontaug Pond and channel, Charlestown Pond and channel, Brightman Pond and channel. It shall be illegal to set, haul, and/or maintain a seine in the Harbor of Refuge and within one hundred (100) yards of the Harbor of Refuge Breakwater. Fyke nets are prohibited in all of the Salt Pond channels described in these regulations (refer to def. section).

In addition, it is illegal to set, haul, and/or maintain a trawling device in any of the channels, ponds, and/or rivers as follows: Quicksand Pond and channel, Tunipus Pond and channel, Briggs Marsh and channel, Round Pond and channel, Narrow River and channel, Point Judith Pond and channel, East Pond and channel, Potter Pond and channel, The Harbor of Refuge, Card Pond and channel, Green Hill Pond and channel, Trustom Pond and channel, and Brightman Pond and channel. It shall be illegal to set, haul, and/or maintain a trawling device within Narrow River and channel, and within three hundred (300) yards of the seaward entrance to the river. In addition, it shall also be illegal to seine in Narrow River channel and within 300 yards of the seaward entrance to the river. (RIMFC REGULATIONS) [Penalty - Part 3.03; (RIGL 20-3-3)]

<u>11.6</u> <u>Seines, Fyke Nets, Trawling Devices, and Gill Net Regulations by Geographic Area</u>

<u>11.6.1</u> <u>Pawcatuck River and Little Narragansett Bay</u> -- Except as herein provided for menhaden, it shall be illegal to set, maintain, or haul a gill net for any species in that portion of Rhode Island waters in the Pawcatuck River or Little Narragansett Bay and within one and one half (1 ½) miles south (true) and west (true) of Napatree Point. Gill netting for menhaden will be permitted with a Size No. 1 net provided that the net is constantly tended by the individual setting the net, and provided that the net does not exceed one hundred (100) feet in length and contain a mesh size greater than three and three quarters (3 3/4) inches stretched). It shall be unlawful to retain any other species of fish captured in a menhaden gill net in Little Narragansett Bay or the Pawcatuck River. With the exception of seining between February 1 and April 15 of each year, all netting (including menhaden gill netting) shall be prohibited north of a line from Pawcatuck Rock to Thompson Point. (RIMFC REGULATION) [Penalty - Part 3.3; (RIGL 20-3-3)]

<u>11.6.2</u> <u>Point Judith Pond and Potter Pond</u> -- All netting, except licensed fish traps, shall be prohibited in the Harbor of Refuge and the southern portion of Point Judith Pond. This area shall be defined as including the

water area encompassed by the Harbor of Refuge Breakwater and will be bounded on the north by a line from Strawberry Hill Point to High Point, and on the east by the Great Island Bridge. Gill netting will be prohibited in Point Judith Pond and channel, East Pond and channel, Potter Pond and channel, the Interior Harbor of Refuge, and within one hundred (100) yards seaward of the Harbor of Refuge Breakwater. Otter trawling inside the Harbor of Refuge, Point Judith Pond, East Pond, and within one hundred (100) yards seaward of the Harbor of Refuge Breakwater shall be prohibited. It shall be illegal to set, haul, and/or maintain a seine in the southern portion of Point Judith Pond (as defined above), the Harbor of Refuge and within one hundred (100) yards seaward of the Harbor of Refuge Breakwater. In addition, in the northern portion of Point Judith Pond, all netting shall be prohibited in the Narrows bounded on the west by a line from Betty Hull Point to Short Point, and on the east by a line from Blue Rock Point to Old Cellar Point. All netting shall also be prohibited north of a line from Ram Point to Squally Point. (RIMFC REGULATION) [Penalty - Part 1.16; (RIGL 20-1-16)]

11.6.3 Potter Pond and Channel -- It shall be illegal to set, haul, and/or maintain a gill net or otter trawl in Potter Pond and channel. All netting in Potter Pond channel shall be prohibited between Gooseberry Island on the east end of the channel to the west end of Potter Pond channel. Netting will be permitted in Succotash Marsh. In the northern portion of Potter Pond, all netting shall be prohibited within one hundred (100) feet of the Captain's Brook. (RIMFC REGULATION) [Penalty - Part 1.16; (RIGL 20-1-16)]

11.6.4 Narrow River -- It shall be illegal to set, haul, and/or maintain a trawling device or gill net in Narrow River channel. All netting shall be prohibited in Narrow River channel (refer to definition section), and within three hundred (300) yards of the seaward entrance to Narrow River. In addition, all netting shall be prohibited in Narrow River between Middle Bridge and a point located eight hundred (800) feet north of Bridgetown Road Bridge (Route 138), within one hundred (100) feet north and south sides of the upper Narrows, and within one hundred (100) feet east and west of the seaward mouth of Gilbert Stuart Brook. (RIMFC REGULATION) [Penalty - Part 1.16; (RIGL 20-1-16)]

11.6.5 Charlestown and Quonochontaug Ponds -- Otter trawling in Charlestown Pond and Quonochontaug Pond is prohibited on Saturdays, Sundays, and official State holidays: New Year's Day, Martin Luther King Day, Memorial Day, Independence Day, V.J. Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas. Otter trawling is also prohibited in the areas defined as follows:

11.6.5-1 Charlestown Pond -- South of a line between Marsh Point and Horseshoe Point on the Arnolds shore, west of a line between D.E.M. markers on Marsh Point and Marsh Neck Point. The prohibited area is bounded on the west by a line between the east shore of the Foster Cove channel and a D.E.M. marker on the barrier beach.

11.6.5-2 Quonochontaug Pond -- South of a line running easterly from a D.E.M. marker at the end of Quahaug Point to the northern end of Nopes (Barn) Island. The area is bordered on the west by a line running south from Quahaug Point to a D.E.M. marker on the barrier beach.

All fixed gear is prohibited in the Foster Cove Channel and in the narrows in Charlestown Pond. (For a description of the Charlestown and Quonochontaug Channel areas, refer to the map section.) Fyke nets are prohibited in both ponds between June 15 and September 15 annually. (RIMFC REGULATION) [Penalty - Part 3.3; (RIGL 20-3-3)]

11.6.6 Upper Sakonnet River - The Upper Sakonnet River Marine Life Management Area as defined in Part 3.6 is completely closed to trawling devices. (RIMFC REGULATION) [Penalty - Part 3.3; (RIGL 20-3-3)]

Statement of Intent -- Nothing contained herein shall prohibit the R.I. Marine Fisheries Council from authorizing experimental net fisheries. The R.I. Marine Fisheries Council reserves the right to evaluate, approve, and/or reject netting proposals on an experimental basis for areas normally closed to netting.

11.7 Fyke Net Regulations -- It shall be illegal to use a fyke net for the purpose of taking any fish if said fyke net leader exceeds one hundred (100) feet in length, has a stretched mesh greater than two and one half (2 1/2) inches, a leader which extends more than four (4) feet off the bottom, is not tended every forty-eight (48) hours, and which is within two hundred and fifty (250) feet of any other fishing net. Anyone setting a fyke net must register said gear with the Department of Environmental Management. (RIMFC REGULATION) [Penalty - Part 3.3; (RIGL 20-3-3)]

11.8 Use of Explosives -- The use of explosives as a fishing device in the internal and territorial waters of the State of Rhode Island shall be prohibited. (RIMFC REGULATION) [Penalty - Part 3.3; (RIGL 20-3-3)]

11.9 Migratory Fish Regulations - Statewide -- It shall be illegal to obstruct the free passage of anadromous or catadromous fish in any of the coastal rivers, streams, and/or estuaries of the State of Rhode Island. This shall include, but not be limited to, the following areas: Quicksand Pond, Tunipus Pond, Briggs Marsh, Round Pond, Warren River, Barrington River, Brickyard Pond, Seekonk River,

Narrow River, Point Judith Pond, Potter Pond, Card Pond, Trustom Pond, Green Hill Pond, Charlestown Pond, Quonochontaug Pond, Brightman Pond, Pawcatuck River, Mastuxet Brook, King Tom Pond, Factory Pond, Mill Pond, Smelt Brook, Saugatucket River, Gilbert Stuart Brook, Wesquage Pond, Annquatucket River, Cocumscussoc Brook, Potowomut River, Maskerchugg River, Gorton Pond, Tuscatucket Brook, Spring Green Pond, Pawtuxet River Woonasquatucket River, Moshassuck River, Seekonk River, Ten Mile River, Annawomscutt Brook, Mussachuck Creek, Runnie River, Kickemuit River, Sin and Flesh Brook, Nonquit Pond, Patchet Brook, Dunderry Brook, Cold Brook, Goose Neck Cove, Lily Pond, Almy Pond, Easton Pond Brook and Palmer River. It is illegal to take and/or possess Atlantic Salmon.
(RIMFC REGULATION) [Penalty - Part 3.3; (RIGL 20-3-3)]

11.10 Monthly Report of Commercial Fisheries -- The owner and/or operator of every boat, and/or the operator of any device licensed pursuant to this title for the taking or landing of marine organisms for commercial purposes in the state of Rhode Island, or any person issued a license by the director for such purposes, and any dealer of marine organisms licensed pursuant to this title shall, upon request of the department, make either a telephone report, or a written report or both. Written reports shall be made on forms furnished by the department of environmental management and shall include catch and effort data and any other fishery data which may be required by the director. The reports shall not be made public and shall be kept only for statistical purposes. Failure to comply with the reporting requirements set out in this section or knowingly or willfully making a false report is prohibited. The license or permit of any person found in violation of this section or regulation duly promulgated thereto may be suspended for a period not to exceed sixty (60) days for each offense. No application for a license renewal shall be accepted from a person whose license or permit is currently under suspension or whose reports have not been submitted. Catch reports must be submitted at a time and in a format specified by the director, provided, however, that any such reporting requirements shall not be unreasonable and shall not create an undue burden. (RIGL 20-4-5) [Penalty - Part 11.11]

11.11 Failure to File Monthly Reports -- [20-4-6 Repealed, 7/8/1999 see 20-4-5 above]

11.12 Marking of Traps -- The owner of every trap, pot, or other stationary contrivance used for the taking of marine fish, shellfish, crustaceans, or other invertebrates being fished in the waters of this state, and the owner of any trap or pot for catching or cars, or other contrivance for keeping lobsters, shall mark each such trap, pot, or contrivance, together with the buoy which is attached thereto, with the name or names of the owners thereof or the person or persons using the same, and the license number or numbers of such person or persons. Every person failing to mark each trap as provided in this Section shall be fined not less than twenty dollars ($20) nor more than five hundred dollars ($500) for each such offense and all traps, pots, or other contrivances used contrary to the provisions of this and other Sections of this Chapter shall be seized by any officer engaged in the enforcement of this Chapter; and the property shall be forfeited to

the state. (RIGL 20-4-7)

<u>11.12.1</u> <u>Trap (pot) Limits</u> -- Each person utilizing traps or pots in the fishery for scup shall be permitted to fish up to fifty pots, and each vessel engaged in this fishery will be permitted to set up to fifty traps regardless of the number of licenses on board.

<u>11.12.2</u> <u>Trap Construction</u> - <u>Escape Vents</u> -- All scup traps (pots) must be constructed with escape openings. Openings may be circular, rectangular, or square, and must be a minimum of 3.1" diameter, 2-1/4" X 5-3/4" if rectangular or may be constructed of 2-1/4" X 2-1/4" wire mesh. Escape vents must be attached with biodegradable fasteners which allow vents or panels to fall away from the trap after loss.

All black sea bass traps (pots) must be constructed with two escape openings in the parlor portion of the trap. Openings may be circular, rectangular, or square, and must be a minimum of 2.5"in diameter if circular, 1- 3/8" X 5-3/4" if rectangular, 2"X 2" if square. Escape vents must be attached with biodegradable fasteners which allow vents or panels to fall away from the trap after loss.

The hinges or fasteners of one panel or door must be made of one of the following degradable materials.

(a) untreated hemp, jute, or cotton string 3/16" (4.8mm) or smaller;
(b) magnesium alloy, timed float releases (pop-up devices) or similar magnesium alloy fasteners;
(c) ungalvanized or uncoated iron wire of .094" (2.4mm) or smaller.

If "bungee" cord or other elasticized material is used to fasten the top, it must be secured to the trap with a degradable hog ring.

<u>11.12.3</u> <u>Buoy Lines</u> -- The use of floating line within eight (8) feet of the surface of the water is prohibited on all scup pots, traps, or similar contrivances.

(RIMFC REGULATION) [Penalty - Part 3.3; (RIGL 20-3-3)]

<u>11.13</u> <u>Unauthorized Raising of Traps, Pots, and Devices</u> -- No person except the Director, Enforcement Officers, and authorized technical personnel of the Department, shall unduly disturb, lift, raise, molest, or remove any animal from a trap, pot, or other such device of a person licensed under this Title, without the written permission of that person. (RIGL 20-4-8) [Penalty - Part 1.16; (RIGL 20-1-16)], *unless the violation applies to night lobstering, then cite [Part 15.16; (RIGL 20-7-13)]*

<u>11.14</u> <u>Upper Bay Dragging Regulations</u> -- Pursuant to RIGL 20-4-3 (see reg. 11.3),

the use of beam trawls, otter trawls, pair trawls, or any other mechanical trawling device will also be allowed in the Upper Narragansett Bay Trawling Area, as described in Part 3.6 (20), but only between July 1st and November 1st, and not on weekends and legal State holidays during said period. (RIMFC REGULATION) [Penalty - Part 1.16; (RIGL 20-1-16)]

11.15 Licenses - Expiration -- Unless otherwise in this Title specified, all licenses issued hereunder shall be annual and shall expire on June 30 of every year. (RIGL 20-2-14)

11.16 Commercial Gill Net Fishery - License or Permit Required -- It shall be unlawful for any person to set, haul, and/or maintain a commercial gill net in the public waters of the State without first obtaining a license or permit as provided in § 20-2-26.1. Any person violating the provisions of this Section shall, upon conviction, be punished by a fine not exceeding five hundred dollars ($500) or imprisonment of not more than one (1) year or by both. (RIGL 20-4-13)

11.17 Atlantic Sea Herring Season -- No person shall, in any manner, take and/or possess in Rhode Island any Atlantic sea herring between October 1 and October 21 annually.

11.17.1 Atlantic Herring Processing -- No person may process Atlantic herring for purposes other than human consumption. Direct mealing of Atlantic herring is prohibited until further notice.

(RIMFC REGULATION) [Penalty - Part 3.3; (RIGL 20-3-3)]

11.18 Narragansett Bay, Mt. Hope Bay, Sakonnet River, Charlestown and Quonochontaug Ponds Winter Mesh Size Regulations -- This area is defined as all Rhode Island State waters which are north of the following lines: north of a line running from easternmost extension of Carrier Pier to Conanicut Pt. to the tips of the T Pier on Prudence Island to Carr's Point; and north of a line from Sachuest Pt. to Sakonnet Point; and all waters north of Quonochontaug and Charlestown Breachways. Except as provided for in Section 7.08-2 and 11.19, in that portion of the area described above which is open to trawling, it is illegal to utilize an otter trawl during the period November 1 to February 28, (inclusive) which has any mesh which measures less than 6" stretched mesh (measured inside knot to inside knot). (RIMFC REGULATIONS) [Penalty - Part 3.3; (RIGL 20-3-3)]

11.19 Coastal Marine Life Management Area -- For the purpose of managing winter flounder a Coastal Marine Life Management Area (CMLMA) is established which includes all state waters north of the Colregs line of demarcation, north of the seaward entrance to all coastal salt ponds, including the area north of the seaward entrances to the Harbor of Refuge, the waters of Narrow River, and the waters of Little Narragansett Bay north of a line from Napatree Point to the western end of Sandy Point, including the waters of the Pawcatuck River.
No person shall possess winter flounder while fishing in the Coastal Marine Life

Management Area except as provided for in section 11.19.4.
Any person taking and/or possessing winter flounder in the Coastal Marine Life Management Area except as provided in 7.8-1 and 7.8-2 shall not be subject to fine and penalty if said fish are immediately returned to the water from which they came. It is illegal for an otter trawl vessel to initiate trawling within the Coastal Marine Life Management Area and haul back outside the CMLMA and possess winter flounder except as specified in Part 7.8.1.

11.19.2 - Repealed

11.19.3 - Repealed

11.19.4 - Within the CMLMA north of the seaward entrance to all coastal salt ponds, including the area north of the seaward entrances to the Harbor of Refuge, the waters of Narrow River, and the waters of Little Narragansett Bay north of a line from Napatree Point to the western end of Sandy Point, including the waters of the Pawcatuck River there will be a 50 pound per vessel per calendar day possession limit for all commercial fishermen.

11.19.5 - Repealed

11.19.6 - With the exception of gillnets and fyke nets, fishing for winter flounder in the CMLMA will be prohibited from one hour after sunset until one hour before sunrise. Gillnets and fyke nets may not be hauled from one hour after sunset to one hour before sunrise.

11.19.7 - Repealed

11.19.8 - Repealed

11.19.9 - Repealed

(RIMFC REGULATIONS) [Penalty - Part 3.3; (RIGL 20-3-3)]

11.20 Regulations for Internal Waters Processing Applications for Atlantic herring and/or Atlantic mackerel -- No application for Internal Waters Processing (IWP) of Atlantic herring and/or Atlantic mackerel shall be accepted after March 1, annually, unless accompanied by a legally binding contract for an IWP operation in Rhode Island waters involving Rhode Island fishing vessels. The Director may grant an allotment from Rhode Island's existing unallocated or uncontracted quota for a legally bound IWP application submitted after the March 1 deadline.

(RIMFC REGULATIONS) [Penalty - Part 3.3; (RIGL 20-3-3)]

Rule 8. EFFECTIVE DATE

The foregoing rules and regulations Rhode Island Marine Statutes and Regulations, after due notice, are hereby adopted and filed with the Secretary of State this 8th day of December, 2009 to become effective 20 days from 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 through 20-10, 42-35, 42-17.1, 42-17.6 of the General Laws of Rhode Island of 1956, as amended.

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W. Michael Sullivan, PhD
Director, Department of Environmental Management

Notice Given:	09/21/2009
Public Hearing:	10/21/2009
Filing date:	12/08/2009
Effective date:	12/28/2009