

Public Hearing
September 10, 2018

Proposed/annotated amendments

Note: Proposed new language is identified as **red, bold, underline**; proposed language to be deleted is identified as ~~red-stricken~~.

250-RICR-90-00-2

TITLE 250 - DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 90 - MARINE FISHERIES

SUBCHAPTER 00 - N/A

PART 2 - Commercial and Recreational Saltwater Fishing Licensing Regulations

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2.1 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.

2.2 Authority

These Rules and Regulations are promulgated pursuant to R.I. Gen. Laws Chapters 42-17.1, 20-2.1, and 20-2.2, R.I. Gen. Laws § 20-1-4 and in accordance with R.I. Gen. Laws Chapter 42-35.

2.3 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.

2.4 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.

2.5 Superseded Rules and Regulations

On the effective date of this Part, all previous Rules and Regulations, and any policies regarding the administration and enforcement of the R.I. Gen. Laws Chapters 20-2 ("Licensing"), 20-2.1 ("Commercial Fishing Licenses"), and 20-3.1 ("Marine Fisheries Management Modernization"), shall be superseded, provided that regulations promulgated by the Director or the Rhode Island Marine Fisheries Council pursuant to R.I. Gen. Laws Chapter 20-3 ("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.

2.6 Definitions

See Marine Fisheries Definitions, Part 1 of this Subchapter.

2.7 General Management and Licensing Regulations

2.7.1 Management Controls

A. Fishery Endorsements:

1. Fishery endorsement categories shall include:
 - a. Lobster;
 - b. Non-Lobster Crustacean: all crustacean species, as well as horseshoe crabs, available for commercial harvest, except lobster;
 - c. Quahaug;
 - d. Soft-shell Clam;
 - e. Shellfish Other: all shellfish species available for commercial harvest, except quahaug and soft-shell clams;
 - f. 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, tautog, striped bass, and black sea bass;
 - g. Non-Restricted Finfish: all species of finfish and squid available for commercial harvest except the five species specified in the restricted finfish endorsement category; and
 - h. Whelk: all whelk species available for commercial harvest.
2. ~~By rule, the~~ 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.

~~B. Harvest and Gear Levels~~

- ~~1. 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.~~
- ~~2. 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.~~
- ~~3. 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.~~

Commented [DP(1): Obsolete

~~G. Regulation of Gear~~

~~D. Times and Seasons~~

~~E. Area Closures and Restrictions~~

~~F. Quotas~~

~~G. Catch and Landings Limits~~

HB. Limits on Entry

1. ~~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.~~
2. ~~By rule, t~~The Department may establish entrance/exit ratios, lotteries, waiting lists, or other allocation measures as a means for limiting entry pursuant to § 2.7.1(H)(1) of this Part **consistent with fisheries management plans.**
3. ~~Any/all limits on entry for each license type and/or endorsement shall be annually prescribed herein in § 2.9 of this Part.~~

Commented [DP(2): Director authority per 20-2.1-2 and 2.1-9. Not needed for regulation

Commented [DP(3): Do not need to cite

Commented [DP(4): Essentially duplicate with section 2.7.1(K) below

IC. Control Dates

1. ~~By rule, t~~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.
2. 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.
3. 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.
4. 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.

5. Control dates may only be established prospectively, unless a retroactive control date is expressly required by federal law, regulation or court decision.
6. A control date of December 31, 2007 is established for the soft-shell clam fishery in Rhode Island.
7. A control date of December 31, 2007 is established for the purse seine and mid-water/pair trawl fisheries in Rhode Island.

JD. Exit/Entry Ratios:

Hearing item 1; Restricted Finfish Endorsement (section 2.7.1(D)(1)):

OPTION 1/Status quo: Maintain 1:1 exit:entry ratio

1. Restricted finfish – For every one (1) license, eligible to harvest restricted finfish, namely, Multi-Purpose Licenses and Principal Effort Licenses with a restricted finfish endorsement, that are not renewed, one (1) new Principal Effort License with restricted finfish endorsement will be made available; provided, that if the application of the exit/entry ratio yields a value less than a multiple of three (3) endorsements, the number of endorsements will be rounded up to yield a multiple of three (3) endorsements.

OPTION 2/IAC Proposal: Modify exit:entry ratio from 1:1 to 2:1

1. Restricted finfish – For every one (1) license, eligible to harvest restricted finfish, namely, Multi-Purpose Licenses and Principal Effort Licenses with a restricted finfish endorsement, that are not renewed, ~~one (1)~~ **two (2)** new Principal Effort License with restricted finfish endorsement will be made available; provided, that if the application of the exit/entry ratio yields a value less than a multiple of three (3) endorsements, the number of endorsements will be rounded up to yield a multiple of three (3) endorsements.
2. Quahaug - For every one (1) license eligible to harvest quahaug, namely, Multi-Purpose Licenses and Principal Effort Licenses with a quahaug endorsement, that are not renewed, one (1) new Commercial Fishing License with quahaug endorsement will be made available; provided, that if the application of the exit/entry ratio yields one (1) or two (2) licenses/endorsements, three licenses/endorsements will be made available.
3. Soft Shell Clam – For every five (5) 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 not renewed, one (1) 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 (2) licenses/ endorsements, three licenses/endorsements will be made available.

~~KE~~. 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.

Hearing item 2 (section 2.7.2(A)): Division proposal to add a due date for the public availability of the updated Sector Mgmt. Plan (combined with item 3):

2.7.2 Management Plans

A. ~~Required:~~ The management controls set forth in ~~§ 2.7.1 of this Part must be based on~~ these regulations shall be consistent with fishery~~ies~~ management plans ~~that have been~~ adopted by the Department pursuant to R.I. Gen. Laws § 20-2.1-9(5) 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. Such plans shall be updated annually, with draft plans made available for public review a minimum of thirty (30) days prior to any public hearing that addresses commercial licensing.~~

B. The management controls set forth in these regulations shall also be consistent with fisheries management plans adopted by a federal agency or regional body of competent jurisdiction.

~~B. Purpose and Content:~~

- ~~1. The central objectives of all fishery management plans shall be~~
 - ~~a. To prevent overfishing, while achieving on a continuous basis the maximum sustainable yield from each fishery; and~~
 - ~~b. To restore overfished or depleted stocks to sustainable levels.~~
- ~~2. Management plans shall be responsive to, and reflective of, changing stock and fishery conditions, and thereby support an adaptive management process.~~
- ~~3. Management plans shall seek to achieve the objectives set forth in § 2.7.2(B)(1) of this Part by establishing management measures that may~~

Commented [DP(5): Combined with deletion of "Annual Reports" section below, which addresses submittal of the plan/report to the GA. Regs do not need to address submittal of the report to the GA, However, it is important that a timeframe be specified for the availability of the plans to the public prior to the annual hearing on commercial licensing.

~~include a mix of input and output controls, such as limitations or restrictions on effort, gear, catch, areas, times, and/or seasons.~~

- ~~4. 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 § 2.7.2(B)(1) of this Part, and with due regard to:
 - ~~a. 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~~
 - ~~b. The interests of residents who wish to fish commercially.~~~~
- ~~5. 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 Oceanic and Atmospheric Administration (NOAA) Fisheries.~~
- ~~6. Management plans shall be based on the best scientific information available.~~
- ~~7. Management plans shall consider the effectiveness of management measures in reducing by-catch, by-catch mortality, and discards.~~
- ~~8. Management plans shall complement federal and regional management plans and programs and the reciprocal arrangements with other states.~~
- ~~9. 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 U.S.C. § 1851 (2017) and further delineated in R.I. Gen. Laws § 20-2.1-9(2)(iv).~~
- ~~10. Management plans may take into consideration other factors that the Director deems appropriate.~~

2.7.3 Emergencies

The Director may promulgate marine fisheries management rules with less than ~~sixty (60)~~ **thirty (30)** 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 R.I. Gen. Laws § 42-35-~~3~~ **2.10**.

Commented [DP(6)]: Contents of plans articulated in 20-2.1-9(5). Not needed for regulation

Commented [DP(7)]: Statutorily changed from 60 to 30 days in 2016

Hearing item 3 (section 2.7.4(B)); Division proposal to remove the content and due date for the issuance of an annual report to the General Assembly on the conservation and management of marine fisheries resources (i.e., Sector Management Plans) (combined with item 2):

2.7.4 Annual Report

- A. ~~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.~~
- B. ~~Due Date: The annual report on marine fisheries resources shall be issued no later than September 15 for the calendar year preceding.~~

Commented [DP(8): This report is the Mgmt. Plans discussed in 2.7.2. There is no separate report. This reg addresses submittal to the GA, which is not necessary to state in the regulations.

2.7.5 Use of License, Landing Permit and Vessel Declaration Fees

A. ~~Annual Spending Plan:~~

- ~~1. License and vessel declaration fees must be used by the Department in accordance with an annual spending plan adopted with the advice of RIMFC.~~
- ~~2. The Department will submit its annual spending plan to RIMFC no later than September 1 for the following fiscal year.~~

B. ~~Activities Eligible for Funding: License, landing permit and vessel declaration fees are to be used by the Department for the following specific purposes:~~

- ~~1. Protection and propagation of marine fish, lobsters and shellfish;~~
- ~~2. Enforcement of fisheries management regulations;~~
- ~~3. Shellfish transplants;~~
- ~~4. Enhancement of shellfish resources through other technologies including seeding;~~
- ~~5. Fishing port development and construction;~~
- ~~6. Staff support to and expenses incurred by RIMFC;~~
- ~~7. Lease or purchase of land or conservation easements; and~~

~~8. 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.~~

~~C. 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.~~

Commented [DP(9)]: Addressed in RIGL 20-2-28.2 and 20-2.1-10. Not needed for regulation

2.7.62.7.4 Data Reporting for Commercial Fishing Licenses

A. Required:

4. 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 **consistent with R.I. Gen. Laws § 20-4-5. Reporting shall be required on forms or in a format as prescribed by the Director.**

Hearing item 4 (former section 2.7.6(A)(2)): Division proposal to remove the requirement that the Department provide a list of reporting requirements at the time of license issuance or renewal to applicants for commercial fishing or dealer licenses or landing permits.

~~2. 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.~~

Commented [DP(10)]: This rule has never been implemented. Such list provided "at the time of license issuance" is not necessary; licensees are notified of reporting deficiencies

~~3. The Department may amend reporting requirements, no later than December 1 for the following calendar year.~~

Commented [DP(11)]: Essentially duplicate with 2.7.1(K), which is broader in scope

Hearing item 5 (former section 2.7.6(A)(4)): Division proposal to remove the requirement that the Department notify license holders of a reporting deficiency via certified mail.

4. ~~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.~~

Commented [DP(12)]: Duplicate with 2.7.12(A)(1)

Commented [DP(13)]: Moved to Eligibility below. Proposing to remove certified mail requirement, which is not currently being implemented

B. Licensed 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.

Commented [DP(14): Not new, re-located only, no change to applicability

Hearing item 6 (section 2.7.4(C)); Division proposal to re-locate language regarding the timeframe for when fishing trips must be documented from the "Paper Catch and Effort Harvester Logbook" section to "Data Reporting" section.

Commented [DP(15): Not accurate where language is currently located as could be read as applicable only to licensees holding a Paper Catch and Effort Harvester Logbook. Re-located here to broaden applicability to all license holders

Hearing item 7 (section 2.7.4(C); Division proposal to change the requirement regarding the due dates that fishing trips must be documented:

OPTION 1:

C. Trips must be documented prior to landing.

OPTION 2:

C. Trips must be documented within three (3) hours of landing.

D. Accurately completed copies of the federal Vessel Trip Reports or state reporting forms shall be kept in numerical order on board the vessel dating back to January 1st of the current year and furnished upon request. A vessel shall be exempt from this requirement if the captain of said vessel is currently enrolled in an electronic logbook program. Instead, the vessel must have all records dating back to January 1st of the current year entered electronically.

Commented [DP(16): Not new; re-located from Part 1 so is addressed in a single location

Hearing item 8 (section 2.7.4(E)); Division proposal to add reporting due dates:

E. Due dates for the submittal of reports:

1. For fishing activity occurring in the months of January, February, and March: April 15.
2. For fishing activity occurring in the months of April, May, and June: July 15.
3. For fishing activity occurring in the months of July, August, and September: October 15.
4. For fishing activity occurring in the months of October, November, and December: January 15.
5. To renew prior to January 15, harvester reports must be submitted for all of December if renewing in January and up to date in December if renewing in December.

Commented [DP(17): These dates currently only located in Logbook instructions; is regulation

B. Manner of Reporting:

- ~~1. 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.~~

Commented [DP18]: Not deleted; re-located above

Hearing item 9 (former section 2.7.6(B)(2): *Division proposal to remove the requirement that license holders will be notified 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:*

- ~~2. 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.~~

Commented [DP19]: This has never been implemented. License holders are notified in writing annually by Dec. 1 of new license opportunities by Dec. 1 per 2.7.1(E), and also are notified in writing of any reporting deficiencies. Any changes to reporting requirements done via public hearing.

GE. Collection and Use of Data:

1. Data will be collected, managed and disseminated according to the coastwide minimum protocols of the Atlantic Coastal Cooperative Statistics Program (ACCSP).
2. 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.
3. Any data that are released or reported to the public shall be aggregated so as to not identify individual fishers, vessels or dealers.

2.7.7.2.7.5 Commercial Licensing

- A. **Information Application** required: ~~Applicants~~ **Applications** for any license or permit issued under these regulations shall ~~provide a notarized statement~~ containing the following information:

1. Full name;
2. Age;
3. Occupation;
4. Residence address;
5. Mailing address;
6. Weight;
7. Height;
8. Hair color;
9. Eye color;

10. The name of any state or jurisdiction in which the applicant's commercial fishing license and/or permit is currently revoked or suspended; and
11. Driver's License number and state of issuance, or other state-issued photo identification card.

12. Applications must be notarized.

13. Reporting method: Paper Catch and Effort Harvester logbook; or, federal Vessel Trip Report (VTR), or e-TRIPS. The Paper Catch and Effort Harvester logbook and e-TRIPS reporting methods cannot be declared together.

Commented [DP(20): Not new; re-located from 2.7.7(K)(3)

B. Other Requirements:

1. A license or permit must be signed and sworn to by the party to whom it is issued in order to be valid.
2. Licenses and permits are valid only for the signed holder and may not be transferred.
3. All fees must have been paid for a license or permit to be valid.
4. 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.
5. 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.

~~6. No application for a license renewal shall be accepted from a person whose data reports have not been submitted.~~

Commented [DP(21): Duplicate; covered in section 2.7.6

- ~~7.6.~~** 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 Licenses of his or her former and current address.

7. Expiration. Unless otherwise specified in this title, all licenses issued under this chapter shall be annual and shall expire on December 31 annually. 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 § 2.7.5(C)(5) of this Part shall not extend the validity of any expired license.

Commented [DP(22)]: Not new; re-located from Penalties section. Want this known early on

C. Application Deadlines:

1. 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 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. Holders of a Student Shellfish license (if renewable) will be notified by November 1 and the license must be renewed by June 30 of the following year in order to remain valid.
2. All notices will be sent by regular mail to the mailing address given on the license or permit holders last license application or change of address form.
3. All applications for 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. Applications for a Student Shellfish license, whether renewal or new issue, must be made in person by 4:00 PM on June 30, or on the first business day following June 30 if that day falls on a Saturday, Sunday, or holiday. All license applications shall be made at the Department of Environmental Management, Office of Boat Registration and Licenses, 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 <https://www.ri.gov/DEM/commercialmarine/>, 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.
4. No 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 §§ ~~2.7.7~~ **2.7.5**(C)(3) or (5) of this Part, or §§ ~~2.7.7(H)~~ **2.7.5(E)(3)** or ~~(F)~~ of this Part. No student shellfish license will be issued or renewed after the close of business on February 28, or on the first day

following June 30 if that day falls on a Saturday or Sunday or holiday, unless said license or endorsement was applied for consistent with the requirements of §§ ~~2.7.7~~ **2.7.5**(C)(3) or (5), or §§ ~~2.7.7(H)~~ **2.7.5(E)(3)** or ~~(F)~~ of this Part.

5. With the exception of Student shellfish license applications, applications for renewal of licenses referenced in §§ ~~2.7.7~~ **2.7.5** (C)(3) and (4) of this Part 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 Boating Registration and Licenses, 235 Promenade Street, Providence, RI 02908; or via mail at the same address; or electronically via the Department's online renewal service at www.ri.gov/DEM/commercialmarine.

~~6. No license or permit will be renewed unless the data reporting requirements of § 2.7.6 of this Part have been met.~~

Commented [DP(23)]: Not deleted; re-located below in renewal applicability. Not related to an application deadline

~~K.D.~~ Demonstration and Verification of **Activity** ~~Actively Fishing and Actively Participating~~ Standards **for the Issuance of New Licenses:**

1. **Actively Fishing:**

- a. To meet the standard of Actively Fishing, ~~an applicant~~ **the license holder** must ~~be able to~~ **have held the license for a minimum of the immediate two (2) preceding calendar years, and** demonstrate by dated transaction records, ~~and for multiple-day trips, Vessel Trip Reports~~ **as verified by SAFIS dealer or dockside sales reporting**, that he or she has fished at least **a minimum of forty (40) days legal RI landings** in the preceding 2 calendar years, pursuant to a valid RI license. ~~Such fishing activity must have spanned the 2 calendar years, meaning that some activity occurred in each of the 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 §§ 2.7.7(D), (F), (G), (H), and (I) of this Part.~~

Commented [DP(24)]: This language is eligibility; discussed below, duplicate

- (1) In cases where there are less than forty (40) legal RI landings, and one or more of those landings is associated with a multi-day trip(s), Vessel Trip Reports and days fished from those trip(s) may be used to meet the standard of Actively Fishing.**

(2) In cases where dockside sales reports are being used to meet the standard of Actively Fishing, additional documentation may be required, including, but not limited to, 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.

Commented [DP(25): No change to any applicability proposed. Looking only to clarify current requirements. Combined with deletion of definitions of "Actively Fishing" and "Actively Participating"

8-(3) In cases where a person holds both a Landing Permit and a Commercial Fishing License concurrently issued by the Department, dated T^ransaction records established in SAFIS which are recorded on an ~~applicant's~~ license holder's Landing Permit may be considered for the demonstration or verification of the Activity Standards provided that the applicant also possesses a Commercial Fishing License, Principal Effort License, or Multipurpose Fishing License which was valid at the time of the activity being considered.

b. For the issuance of a license in accordance with section 2.7.5(E) of this Part, the Activity Standard established in section 2.7.5(D)(1)(a) of this Part must be met, in addition to one of the following conditional criteria, as applicable:

(1) Issuance of a new license upon sale of vessel and/or gear: Landings must have occurred in the previous two (2) calendar years, with landings occurring in one (1) or both of those calendar years.

(2) Issuance of a new license under a medical hardship condition: Landings must have occurred in at least two (2) consecutive calendar years from 2006 to the date of the license holder's hardship.

(3) Issuance of a new license based on previous license activity: This section applies only to a Commercial Fishing License Quahaug endorsement, Student Shellfish license, and Over 65 Shellfish licenses. Persons are not eligible if cited for a violation of Rhode Island's marine fisheries laws or regulations during the two-year period preceding the date of application.

(aa) Persons who possess a valid Student Shellfish or Over 65 Shellfish License as of the immediately preceding year are eligible to obtain a new

Commercial Fishing License with a Quahaug endorsement for the immediate following year.

(bb) Persons who possess a valid Commercial Fishing License with Quahaug endorsement as of the immediate preceding year are eligible to obtain a new Principal Effort License with Quahaug endorsement for the immediate following year. For the purposes of this section, only quahaug landings may be used to meet the Activity Standard as specified in section 2.7.5(D)(1)(a) of this Part.

(4) Issuance of a new Whelk endorsement based on previous license activity: Persons who possess a valid Commercial Fishing or Principal Effort License with Quahaug or Soft-Shell Clam endorsement as of the immediately preceding year are eligible to obtain a new Whelk endorsement for the immediate following year. For the purposes of this section, only quahaug and/or soft-shell clam landings may be used to meet the Activity Standard as specified in section 2.7.5(D)(1)(a) of this Part.

Commented [DP(26)]: Again, nothing new being proposed. Only looking to re-locate to read better

2. Transaction records, and Vessel Trip Reports, if applicable, submitted in accordance with § 2.7.7(K)(1) of this Part, 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.

Commented [DP(27)]: This section is eligibility; discussed below, duplicate

32. **Actively Participating:** To meet the standard of Actively Participating, an applicant **a crew** must be able to demonstrate via one or more affidavits that they have worked as a paid crew ~~member~~ for one or more ~~licensed~~ captains **licensed in the state of Rhode Island on a vessel that was commercially declared during the period of activity**, for at least a **minimum of forty (40) days legal RI landings** in the **immediately preceding two (2) calendar years**. To be considered a paid crew ~~member~~, ~~the crew member~~ **persons** must ~~have~~ **demonstrate a** valid record of being **a** paid ~~by the~~ **employee of the** vessel owner or person licensed to fish commercially, ~~such as~~ **including either** a W-2 form, 1099 form, ~~and/or~~ paycheck stub from a financial institution **for the period of time being used to meet the standard of Actively Participating**. ~~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 §§ 2.7.7(F) and (G) of this Part.

Commented [DP(28): This section is eligibility; discussed below and in Priority section, duplicate

~~4. Affidavits submitted in accordance with § 2.7.7(K)(3) of this Part above must be on forms provided by the Department and must be notarized.~~

Commented [DP(29): By definition, affidavits must be on forms provided by the Dept. and must be notarized, so this is duplicate

~~5a.~~ Affidavits ~~submitted in accordance with § 2.7.7(K)(3) of this Part above~~ must reflect activity conducted upon a vessel that was commercially declared during the period of activity.

~~63.~~ 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~~ **demonstrate** 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. DEM shall determine whether the documentation submitted by the license holder substantiates the landings and associated fishing activity claimed by the license holder.

~~74.~~ Any ~~applicant~~ **application submitted** ~~seeking status~~ in accordance with this section ~~who submits~~ **that includes** 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 if~~ **F**raudulent submittals will be referred to the Department's Division 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 **pursuant to section 2.7.10 of this Part.**

E. Issuance of New Licenses and ~~Endorsements; Generally~~ **Eligibility**:

~~1. The Department shall issue new licenses and endorsements in accordance with the provisions of duly adopted management plans. Said plans shall be reviewed and, if necessary, updated annually to reflect changes in:~~

~~a. Regional or federal management plans or programs;~~

~~b. Fish stocks and fisheries; and~~

~~c. 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.~~

2. 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 §§ 2.8 and 2.9 of this Part for each license year annually.

Commented [DP(30)]: Statute that guides DEM; not needed for regulation

- ~~3. 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 §§ 2.7.7(F) and (G) of this Part. 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.~~

Commented [DP(31)]: Not deleted; re-located to Priority section below

Hearing item 10 (section 2.7.5(E)(3): Division proposal to amend the date that requires the Department to issue new licenses following the application deadline. Proposal is to change from fifteen days to ninety days:

- ~~43.~~ 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 § ~~2.7.7~~ 2.7.5 (C) of this Part, and then issue said licenses or endorsements to eligible applicants within ~~fifteen (15)~~ ninety (90) 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.

Commented [DP(32)]: Is not currently met and is not feasible due to volume of applications. Applications are processed as expeditiously as possible and mailed by May. 90 days can be met.

~~D. License Renewals, Transitions and Upgrades:~~

Commented [DP(33)]: Technically no such thing, license is surrendered with a new license issued

~~43.~~ **License renewals:**

- a. **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 regarding the deficiency.**
- b. Applicants **Persons** 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 be eligible to obtain a renew their Commercial Fishing License with the same endorsement(s). Other fishery endorsements on Commercial Fishing Licenses—including Non-Lobster Crustacean (resident only), Shellfish Other (resident only), and Non-Restricted**

Commented [DP(34)]: Not new; re-located from Data Reporting section above as is an eligibility requirement for license renewals. Proposing to remove requirement of certified mail

Commented [DP(35)]: Redundant. Eligibility

Commented [DP(36)]: Not necessary to specify different types of endorsements.

~~Finfish — may be renewed without restriction. Non-resident applicants must demonstrate that their state of residence complies with the reciprocity requirements set forth under § 2.7.9 of this Part.~~

Commented [DP(37)]: Redundant with 2.7.9

- ~~2c. Applicants **Persons** 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 **are eligible to obtain a renew their** 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 — may be renewed without restriction. Non-resident applicants must demonstrate that their state of residence complies with the reciprocity requirements set forth under § 2.7.9 of this Part.~~
- ~~3d. Applicants **Residents** who possessed a valid Multi-Purpose License (resident only) as of the immediately preceding year may **are eligible to obtain a renew their** Multi-Purpose License for the immediately following year.~~

~~(1) **a**Alternatively, applicants **residents** who possessed a valid Multi-Purpose License (resident only) as of the immediately prior year may **are eligible to** obtain a **new** 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) endorsements for the immediately following year **in place of a Multi-Purpose License. Prior to issuance of a new license, the currently held license must be surrendered.**~~

- ~~e. **Residents who possess a valid Student Shellfish License as of the immediate preceding year are eligible to renew their Student Shellfish License pursuant to section 2.7.6(E) of this Part for the immediate following year.**~~
- ~~f. **Residents who possess a valid 65 and Over Shellfish License as of the immediate preceding year are eligible to renew a 65 and Over Shellfish License for the immediate following year.**~~

- ~~4. 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.

5. Applicants who possessed a valid 65 and Over 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.

6. 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.

7. 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.

8f. Applicants who obtained a Principal Effort License with Lobster endorsement in 2008, or any year thereafter, must continue to hold a Lobster Trap Allocation to be eligible for renewal.

9. Resident applicants who possessed a valid Landing Permit as of the immediately preceding year obtain a Landing Permit for the immediately following year for any fishery, pursuant to the eligibility requirements set forth in § 2.7.9 of this Part.

10. 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 § 2.7.10(C)(4) of this Part. In addition, any such applicant may also obtain new Landing Permits pursuant to the eligibility requirements set forth in § 2.7.10 of this Part.

12. The provisions of this section apply only to the license year beginning on January 1, and the issuance of licenses pursuant to this section is subject to the license application deadlines and other requirements set forth under §§ 2.7.7(A), (B), or (C) of this Part.

Commented [DP(38)]: Eligibility for new endorsements/endorsement "upgrades" re-located to section 2.7.5(D)(1) as directly related to activity standard

Commented [DP(39)]: Duplicative. Also in "Landing permits" section

Commented [DP(40)]: Application deadlines are clearly specified; nothing additional provided by keeping this

G4. Issuance of New Licenses ~~and Endorsements; Automatic Eligibility~~ for Family Members or Crew ~~Members of Retirees~~:

- 4a.** ~~Anyone~~ **A family member or crew** who ~~is~~ qualified ~~ies~~ as a priority applicant pursuant to §§ ~~2.7.7(F)(1) or (2)~~ **2.7.5(G)(2) or (3)** of this Part ~~may automatically~~ **is eligible to** obtain a Commercial Fishing License with applicable endorsement(s), or a Principal Effort License with a Restricted Finfish Endorsement, if they are ~~the a~~ family member or crew ~~member~~ of a license holder ~~(any type)~~ who has been actively fishing, and ~~who chooses is~~ **is** not ~~to renewing~~ their license.
- 2b.** The applicable endorsement(s) will be in the fishery sector(s) that was/were being actively fished by the ~~retiring~~ **current** license holder. **Prior to issuance of a new license, the currently held license must be surrendered to the Department.**
- 3c.** One new license will be issued for each ~~one retired~~ **license surrendered.**

Commented [DP(41): License is not "retired"; license is surrendered with new license issued

H5. Issuance of New Licenses upon Sale of Vessel and/or Gear:

- 4a.** ~~This section applies only to purchasers of vessels and/or gear who are residents.~~ **Residents are eligible to obtain a new license involving the sale of vessel and/or gear if the license holder is actively fishing.**
- 2b.** ~~Transfer or sale of licenses and endorsements between the purchaser and seller of a vessel and/or gear is prohibited; provided, however, that if the seller of a vessel and/or gear who is actively fishing his or her license shall have first surrendered it to the Department.~~ **Prior to issuance of a new license, the currently held license must be surrendered to the Department. Upon application for a new license,** the Department will ~~then, upon~~ application, issue ~~one a~~ new **equivalent** license to the purchaser of the vessel and/or gear, pursuant to the terms and conditions of this section.
- 3c.** ~~The new license/endorsement(s) issued to the purchaser by the Department will generally correspond to the license/endorsement(s) that was held by the seller. The Department may, however, issue the new license/endorsement(s)~~ **issued may be** at a lower harvest and gear level than the license surrendered ~~by the seller~~ where necessary to accomplish the purposes of ~~the applicable fisheries~~ management plans ~~s adopted pursuant to § 2.7.2 of this Part.~~

Commented [DP(42): There is no "transfer"; license is surrendered with new license issued

Commented [DP(43): Duplicate with b. above

d. New licenses ~~issued~~ **applications made** pursuant to this section are not subject to ~~the an~~ application deadline ~~provisions set forth under § 2-7.7(C) of this Part.~~

4e. Any new license/endorsement(s) ~~issued to the purchaser by the Department pursuant to this section may only be issued to the new licensee upon payment to the Department of the statutorily established fee for the subject license or endorsement.~~ **New license fees shall be applicable at the time of application.**

5. ~~Solely for the purposes of this section, a license holder shall be deemed to meet the “actively fishing” standard, as set forth in § 2-7.7(K) of this Part, regardless of whether the fishing activity spanned the two calendar years or occurred in one of the two years.~~

Commented [DP(44)]: Not deleted; re-located above

6. Issuance of New Licenses to Resident Family Members in cases of Incapacity:

a. **Resident family members are eligible to obtain a new equivalent license in cases of incapacity.**

b. **Demonstration of the incapacity shall be required in the form of a death certificate, or a diagnosis and prognosis signed by a medical doctor (M.D. or O.D.).**

c. **Prior to issuance of the new license, the currently held license must be surrendered to the Department. Upon application, the Department will then issue a new license equivalent to the license currently held.**

d. **The family member shall be designated by the license holder, or, if the license holder is deceased, by mutual agreement among surviving family members. If a mutual agreement has not been reached, the administrator or executor of the estate of the deceased license holder shall be eligible for a new equivalent license for not longer than two (2) years during the probating of the estate.**

e. **New license applications made pursuant to this section are not subject to an application deadline.**

f. **New license fees shall be applicable at the time of application.**

Commented [DP(45)]: Not new. Have split from “Medical Hardship” section as they are distinctly separate processes

447. ~~Renewal of licenses and landing permits for individuals~~ **Persons** returning from active **military** service: ~~Anyone~~ **Persons** holding a valid license and/or landing permit ~~at the time he or she~~ **when** entering active **military** service ~~may have their~~ **are eligible to obtain a new equivalent** license

Commented [DP(46)]: Not a renewal. License has lapsed; a new license will be issued

and/or landing permit held at the time when entering active service 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 held. 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.

F. Issuance of New Licenses and Temporary Operator Permits to Residents
Under in cases of Medical Hardship Conditions:

1. 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. Residents are eligible to obtain an operator permit in cases of medical hardship; such resident shall be designated by the current license holder.
2. The Department will require proof Demonstration of the medical hardship shall be required 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.).
3. Solely for the purposes of this section, a license holder shall be deemed to satisfy the requirement to be found "actively fishing" if the license holder demonstrates to the satisfaction of the Division by dated transaction records, and for multiple day trips, Vessel Trip Reports, that he or she has fished at least 40 days pursuant to a valid RI license in at least 2 consecutive calendar years from 2006 to the date of the license holder's hardship. Such fishing activity needs to be in the same fishery sector(s) or endorsement category(s) for which a new license/endorsement is being sought, as specified in this Section.
4. 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.
5. If a license holder dies without designating a family member, who is a Rhode Island resident and the license holder's surviving family members are unable to reach a mutual agreement has not been reached as to which family member who is a Rhode Island resident should be issued a single, new, license with applicable endorsement(s) that is the equivalent of the license with applicable endorsement(s) that was held and actively fished by the decedent license holder at the time of his/her demise, the

Commented [DP(47)]: Nothing new being proposed. Split "Incapacity" from "Medical hardship" into 2 separate sections as are 2 distinctly separate situations

Commented [DP(48)]: Not defined terms; no meaning

Commented [DP(49)]: Incapacity is defined; duplicative

Commented [DP(50)]: Not deleted; re-located up to Activity Standard section

Commented [DP(51)]: Not a defined term; no meaning

Commented [DP(52)]: Moved up to Incapacity

administer or executor of the estate of the decedent license holder shall be entitled to be re-issued by the Department a single, new equivalent license with applicable endorsement(s) at the statutorily established fee(s) for up to two (2) years during the probating of the estate.

Commented [DP(53)]: Applies in cases of Incapacity, included above

Commented [DP(54)]: Incapacity; moved up

6. In lieu of § 2-7.7(l)(4) of this Part, 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.

Commented [DP(55)]: Medical hardship eligibility; included in section 1. above

Commented [DP(56)]: Incapacity eligibility; included in Incapacity section

Commented [DP(57)]: Permit is issued and therefore valid

Commented [DP(58)]: Included below

73. 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 currently held license must be surrendered to the Department and will be temporarily suspended. Upon application for the operator permit, the operator permit or equivalent license the Department will then issue an operator permit equivalent to the license held, which 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 by the Director. Upon the return to wellness of the incapacitated license holder and application for re-instatement of the license, the original license will, upon application, be re-instated, and upon surrendering the operator permit or equivalent license will be surrendered.

Commented [DP(59)]: Medical hardship

Commented [DP(60)]: Permit is issued and therefore valid

84. New equivalent licenses issued applications made pursuant to this section are not subject to the an application deadline provisions set forth under § 2-7.7(C) of this Part.
9. Any new license/endorsement(s) issued to the purchaser by the Department pursuant to § 2-7.7(l) of this Part may only be issued to the new licensee upon payment to the Department of the statutorily established fee for the subject license or endorsement.

FG. Prioritization for the Issuance of New Licenses and Endorsements;
Prioritization:

1. In cases where only a limited number of new licenses or endorsements are to be issued, the Department shall provide priority to applicants as described herein. 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.

Commented [DP(61): Not new; re-located from 2.7.7(E)(3)]

2. First priority: First priority in the issuance of new licenses with applicable endorsement(s) shall be given to:

- a. Licensed resident ~~fishers~~ **persons** holding Commercial Fishing Licenses, endorsed in the same fishery sector for which a new license/ endorsement is being sought, who have been actively fishing that endorsement,
- b. Licensed resident ~~fishers~~ **persons** holding Principal Effort Licenses who have been actively fishing their license, and
- c. Resident crew members who have been actively participating in the same fishery sector for which a new license/endorsement is being sought.
- d. 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. If the selection of qualified applicants cannot be resolved equitably by the initial prioritization and lottery process, and if the number of remaining endorsements cannot be distributed evenly between the remaining categories, the number of remaining endorsements will be rounded up to provide each remaining category with the necessary endorsement(s) required to complete the selection process.

24. Second priority: Second priority in the issuance of new licenses with applicable endorsement(s) shall be given to:

- a. Licensed resident fishers holding Commercial Fishing Licenses, endorsed in any fishery sector, who have been actively fishing their license and

- b. Resident crew members who have been actively participating in any fishery sector.
- c. 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. If the selection of qualified applicants cannot be resolved equitably by the initial prioritization and lottery process, and if the number of remaining endorsements cannot be distributed evenly between the remaining categories, the number of remaining endorsements will be rounded up to provide each remaining category with the necessary endorsement(s) required to complete the selection process.

35. Third priority: Third priority in the issuance of new licenses with applicable endorsement(s) shall be given to any resident, aged eighteen (18) or older.

46. Fourth priority: Fourth priority in the issuance of new licenses with applicable (i.e., restricted finfish) endorsement shall be given to any non-resident, aged eighteen (18) or older.

Hearing item 11 (section 2.7.5(H)): Proposed change/clarification of procedure regarding the appeal of a license denial due to medical hardship:

JH. Requests for Reconsideration Appeals of License Denials due to Medical Hardship:

1. 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.
2. ~~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 Boating 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 § 2.7.7(J)(7) of this Part.~~

~~G2. The applicant may appeal the denial to the Administrative Adjudication Division for Environmental Matters pursuant to R.I. Gen. Laws § 42-17.7-1 et seq. and the procedures set forth in 250-RICR-10-00-1, Administrative Rules of Practice and Procedure of the Administrative Adjudication Division for Environmental Matters.~~

3. 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. Such proof shall include written documentation of a diagnosis and prognosis of the medical hardship of the license holder signed by a medical doctor (M.D. or O.D.).

~~4. 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.~~

5. 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.

~~6. If a written recommendation is not rendered within thirty (30) days as set forth above, the preliminary decision of the Office of Boating Registration and Licensing shall become final and subject to appeal pursuant to this section.~~

~~7. In reaching its recommendation the Board shall consider:~~

~~a. The impact that issuance of the license will have on the fisheries management program overall;~~

~~b. Equity with other license holders;~~

~~c. Consistency with prior agency decisions;~~

~~d. Consistency with management plans;~~

~~e. Unreasonable hardship to the applicant; and consistency with the provisions and purposes of R.I. Gen. Laws Chapter 20-2.1 and this Part;~~

~~f. 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;~~

Commented [DP(62): Not new; copied from Medical Hardship section

- g. ~~The applicant may appeal the decision of the Office of Boating Registration and Licensing to the Administrative Adjudication Division for Environmental Matters pursuant to R.I. Gen. Laws § 42-17.7-1 et seq. and the procedures set forth in 250-RICR-10-00-1, Administrative Rules of Practice and Procedure of the Administrative Adjudication Division for Environmental Matters;~~
- h. ~~The written decisions of the Board and of the Office of Boating Registration and Licensing shall be provided and made part of the administrative record upon appeal to the Administrative Adjudication Division for Environmental Matters.~~

Commented [DP(63)]: Re-written to accurately describe process

2.7.82.7.6 Licenses, Endorsements and Vessel Declarations; Resident:

- A. 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 § 2.8 of this Part:~~
 - 1. Non-Lobster Crustacean;
 - 2. Lobster;
 - 3. Quahaug;
 - 4. Soft-shell clam;
 - 5. Shellfish Other;
 - 6. Non-Restricted Finfish;
 - 7. Restricted Finfish;
 - 8. Whelk.
- B. Commercial Fishing License:
 - 1. 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.
 - 2. 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 § 2.8 of this Part.~~
- C. Principal Effort License:

1. 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.
2. 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 § 2.9 of this Part.~~
3. 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.
4. The holder of a Commercial Fishing License or 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. The license holder is still required to pay the fee for the "Non-Lobster Crustacean", "Lobster", "Non-Restricted Finfish", "Restricted Finfish", as well as all additional "Gear", "Dockside Sales", "Logbook" endorsements on their Commercial Fishing License or Principal Effort License.

D. Multi-Purpose License:

1. Eligible applicants must present proof of Rhode Island residency and pay an annual fee of three hundred dollars (\$300).
2. 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 § 2.9 of this Part.~~

E. Student Shellfish License:

1. Applicants must present proof of Rhode Island residency and pay an annual fee of fifty dollars (\$50).
2. Applicants must be no older than twenty-three (23) years as of June 30 of the license year.
3. 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.

4. 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 § 2.9 of this Part.~~
5. 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.

F. 65 and Over Shellfish License:

1. Applicants must present proof of Rhode Island residency.
2. There is no fee.
3. Applicants must be at least sixty-five (65) years old as of February 28 of the license year.
4. 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 § 2.8 of this Part.~~
5. 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 and the application requirements are met 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.

G. Gear Endorsements:

1. Gear endorsement categories shall include Fish Trap, Gill Net, Purse Seine, and Mid Water/Pair Trawl.
2. The Fish Trap gear endorsement shall allow the license holder to set one or more fish traps in accordance with all applicable requirements of R.I. Gen. Laws 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 fisheries~~ management plans.

3. 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 fisheries management plans.
4. 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 DEM; must report any/all landings of menhaden on a daily basis to the Division of Marine Fisheries; 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 Marine Fisheries. 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 fisheries management plans.
5. ~~By rule, the~~ 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.

H. Vessel Declaration:

1. 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.
2. Each such vessel must be individually and separately declared, on an annual basis, and the required fee paid.
3. 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.
4. 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.

5. 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.
6. 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.

I. Dockside Sales Endorsement:

1. 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.
2. 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; and resident and non-resident landing permit. With regard to crabs, such licenses and permits shall include: multi-purpose license; principal effort license with non-lobster crustacean endorsement; commercial fishing license with non-lobster crustacean endorsement; and resident and non-resident landing permit.
3. The purchase of a dockside sales endorsement will ensure that the licensee/permittee receives a paper dockside sales logbook.
4. A licensee/permittee who declared their reporting method as a federal vessel trip report is required to report all dockside sales via the paper dockside sales logbook.
5. 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.
6. 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.

7. 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.
8. 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.
9. 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, unless otherwise authorized by the Director.
10. 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.
11. 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.
12. The annual fee for the dockside sales endorsement shall be twenty-five dollars (\$25.00).
13. The dockside sales endorsement is not subject to the application deadline provisions as set forth in § 2.6.7(C) of this Part; 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.

14. All dockside sales reports and reports of no sales activity are due to the Division of Marine Fisheries quarterly.

J. Research Set Aside (RSA) Endorsement:

1. 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.
2. 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.
3. 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.
4. Upon presentation of an approved and valid Exempted Fishing Permit from the Department, an RSA endorsement will be issued.
5. The annual fee for the issuance of an RSA endorsement for state quota monitored species shall be twenty-five dollars (\$25).
6. The RSA endorsement is not subject to the application deadline provisions as set forth in § 2.6.7(C) of this Part; 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.

K. Paper Catch and Effort Harvester ~~and Dockside Sales~~ Logbooks Endorsement:

1. The **Paper Catch and Effort Harvester** logbook endorsement shall ~~enable~~ **authorize** the **license** holder to ~~obtain~~ **use** a paper harvester catch and effort logbook, ~~printed by RIDFW, that will be used in lieu of electronic reporting to report all catch and effort information required by R.I. Gen. Laws § 20-4-5.~~ **Paper Catch and Effort Harvester logbooks are issued by the Director.**
- ~~2. The endorsement shall be automatically available to anyone who holds a Rhode Island landing permit, multipurpose fishing license, commercial fishing license 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.~~
- ~~3. At the time of initial license/permit purchase or license/permit renewal, the applicant is required to declare a reporting method: harvester catch and effort logbook, federal vessel trip report, or e-TRIPS. The harvester catch~~

Commented [DP(64)]: Section does not address Dockside sales logbook

Commented [DP(65)]: Consistency with 20-4-5 stated in Data Reporting section

Commented [DP(66)]: Regs articulate restrictions, if not, then is allowed. So nothing changed by removing this statement

~~and effort logbook and e-TRIPS reporting methods cannot be declared together.~~

Commented [DP(67)]: Application requirement. Moved to that section as broader applicability

42. If ~~the~~ declared as the reporting method, the Paper Catch and Effort Harvester ~~catch and effort~~ logbook, ~~the applicant is required to~~ endorsement fee must be purchase the logbook endorsement paid at the time of ~~initial license/permit purchase or license/permit renewal application.~~

53. Paper ~~harvester~~ Catch and Effort Harvester logbook submissions will not be accepted ~~by RIDFW to meet the license holder's reporting requirement from any~~ license holder who does not ~~have~~ hold the logbook endorsement.

- ~~6. All trips via electronic or paper recording, are required to be filled out before the start of the next trip, and at a minimum, both trip reports and did not fish reports are due to the Division of Marine Fisheries quarterly.~~

Commented [DP(68)]: Not deleted; re-located to "Data Reporting" section as has broader applicability

74. ~~The Annual fee; for the issuance of a logbook endorsement shall be~~ Twenty-five dollars (\$25).

- ~~8. The logbook endorsement is subject to the application deadline provisions as set forth in § 2.6.7(C) of this Part.~~

2.7.92.7.7 Licenses, Endorsements and Vessel Declarations; Non-Resident:

- A. 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 § 2.8 of this Part:~~
1. Non-Restricted Finfish;
 2. Restricted Finfish.
- B. Non-Resident Commercial Fishing License:
1. Applicants must be at least eighteen (18) years old.
 2. 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.
 3. The Division of Marine Fisheries 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 § ~~2-7-9~~ **2.7.7** (B)(2) of this Part. 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 § ~~2-7-9~~ **2.7.7** (B)(2) of this Part through a certified copy of the relevant regulation. This copy is to be forwarded to the Division of Marine Fisheries for review and approval a minimum of two weeks before a license may be issued.

4. The annual fee for a Non-Resident Commercial Fishing License shall be one hundred and fifty dollars (\$150) plus fifty dollars (\$50) per endorsement.

C. Non-Resident Principal Effort License:

1. Eligible applicants must demonstrate that their state of residence complies with § ~~2-7-9~~ **2.7.7**(B)(2) of this Part regarding treatment of Rhode Island residents.
2. 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 § 2-9 of this Part.~~
3. The annual fee for a Non-Resident Principal Effort License shall be four hundred dollars (\$400), plus one hundred dollars (\$100) per endorsement.

D. Non-Resident Vessel Declaration:

1. Applicants must comply with the requirements of § ~~2-7-8~~ **2.7.6**(H) of this Part, provided that temporary transfers of vessel declarations between vessels less than twenty-five (25) feet in length via vessel declaration plates are not permitted.
2. 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.

~~2-7-10~~**2.7.8** **Landing Permits:**

A. General Requirements:

1. 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 offloaded for sale or intended sale.

2. 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.
3. 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.
4. 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.
5. 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.
6. Landing permits are not subject to the application deadline provisions set forth under § ~~2-7.7~~ 2.7.5 (C) of this Part.

B. Resident Landing Permit:

1. The holder of a Resident 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.
2. The annual fee for a Resident Landing Permit is two hundred dollars (\$200).
- ~~3. This landing permit category consolidates the following permit types under one streamlined permit:~~
 - ~~a. Resident Finfish Landing Permit;~~
 - ~~b. Resident Crustacean Landing Permit;~~
 - ~~c. Resident Shellfish Landing Permit;~~
 - ~~d. Resident Miscellaneous Landing Permit;~~
 - ~~e. Resident Multipurpose Landing Permit.~~

C. Non-Resident Landing Permit with Restricted Finfish:

1. The holder of a Non-Resident Landing Permit with Restricted Finfish may land, sell, or offer for sale any marine fishery species or product including restricted finfish species, in accordance with all applicable Rules and Regulations governing those species.
2. The annual fee for Non-Resident Landing Permit with Restricted Finfish is four hundred dollars (\$400).
3. New Non-Resident Landing Permit with Restricted Finfish 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.
4. Renewal of Non-Resident Landing Permit with Restricted Finfish are considered to be new permits subject to the provisions of § ~~2.7.10~~ 2.7.8 (C)(3) of this Part 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 with Restricted Finfish who held that permit as of the immediately preceding year may renew it for the immediately following year as set forth herein.
5. If a non-resident vessel is upgraded by twenty percent (20%) or more in length, displacement or horsepower, renewal of a Non-Resident Landing Permit with Restricted Finfish will be considered a new permit application, issuance of which is subject to the requirements of § ~~2.7.10~~ 2.7.8(C)(3) of this Part.

~~6. This landing permit category consolidates the following permit types under one streamlined permit:~~

~~a. Non-Resident Restricted Finfish Landing Permit~~

D. Non-Resident Landing Permit:

1. The holder of a Non-Resident 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.
2. The annual fee for a Non-Resident Landing Permit is four hundred dollars (\$400).

~~3. This landing permit category consolidates the following permit types under one streamlined permit:~~

- ~~a. Non-resident Finfish Landing Permit;~~
- ~~b. Non-resident Crustacean Landing Permit;~~
- ~~c. Non-resident Shellfish Landing Permit;~~
- ~~d. Non-resident Miscellaneous Landing Permit;~~
- ~~e. Non-resident Multipurpose Landing Permit.~~

~~2.7.11~~**2.7.9 Dealer's Licenses:**

A. General Requirements:

1. 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 § ~~2.7.11~~ **2.7.9**(A)(2) of this Part.
2. 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.
3. Applicants for a dealer's license shall complete such forms containing such information as the Department may require.
4. 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.
5. Each license is valid for the calendar year in which it is issued upon payment of the required fee.
6. 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.

B. Multi-Purpose Dealer's License:

1. 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.
2. The annual fee is three hundred dollars (\$300).

C. Finfish Dealer's License:

1. 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.
2. The annual fee is two hundred dollars (\$200).

D. Shellfish Dealer's License:

1. 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.
2. The annual fee is two hundred dollars (\$200).

E. Lobster Dealer's License:

1. 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.
2. The annual fee is two hundred dollars (\$200).

~~2.7.12~~**2.7.10 Penalties:**

A. Violations:

1. Violations of these regulations may subject the violator to the revocation or suspension of any license, endorsement or permit issued pursuant thereto.

2. Revocations or suspensions may be appealed to the Administrative Adjudication Division.

B. False Statements:

1. 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).
2. 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.
3. 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.

C. Alterations, Forgeries and Counterfeits:

1. 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.
2. 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.

D. Failure to Possess, Present or Display a Proper License, Permit or Vessel Declaration:

1. 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 than 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 R.I. Gen. Laws §§ 20-1-8 and 20-1-8.1.

~~2. 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 § 2.7.7(C)(5) of this Part shall not extend the validity of any expired license.

Commented [DP(69)]: Not deleted; moved up to general licensing

~~2.8 Availability of New Licenses and Endorsements Annually~~

~~2.8.1 Multi-Purpose Licenses:~~

~~New Multi-Purpose Licenses shall be only available pursuant to §§ 2.7.7(H) and (I) of this Part.~~

~~2.8.2 Principal Effort Licenses:~~

- ~~A. Restricted Finfish endorsement: A limited number of new Principal Effort Licenses with Restricted Finfish endorsement will be available annually pursuant to the exit/entry ratio set forth in § 2.7.1(J) of this Part and the prioritization process established in §§ 2.7.7(F) and (G) of this Part.~~
- ~~B. Additional new Principal Effort Licenses shall only be available pursuant to §§ 2.7.7(H) and (I) of this Part.~~
- ~~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:~~
 - ~~1. Non-Lobster Crustacean (resident only),~~
 - ~~2. Shellfish-Other (resident only), and~~
 - ~~3. Non-Restricted Finfish.~~

~~2.8.3 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.~~
- ~~C. A limited number of new Commercial Fishing Licenses with Quahaug and Soft-Shell Clam endorsements will be available annually pursuant to the exit/entry ratios set forth in § 2.7.1(J) of this Part and the prioritization process established in §§ 2.7.7(F) and (G) of this Part.~~

~~2.8.4 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.~~

~~2.8.5 Fish Trap Endorsements:~~

~~No new Fish Trap gear endorsements shall be made available annually, unless specified via separate regulatory action undertaken by the Director in accordance with R.I. Gen. Laws Chapter 20-5.~~

~~2.8.6 Gill Net Endorsements:~~

~~No new Gill Net gear endorsements shall be available annually, except pursuant to §§ 2.7.7(H) and (I) of this Part if deemed applicable by the Director.~~

~~2.8.7 Purse Seine Endorsements and Mid Water/Pair Trawl Endorsements:~~

~~New Purse Seine and Mid Water/Pair Trawl Endorsements will be issued annually, pursuant to § 2.7.8(G)(4) of this Part.~~

~~2.8.8 Whelk Endorsements:~~

~~New Whelk endorsements shall only be available annually pursuant to § 2.7.7(D)(7) of this Part.~~

Commented [DP(70)]: Duplicate. Eligibility for license renewals, new licenses, and endorsements specified above

~~2.9 Harvest and Gear Levels~~

~~2.9.1 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. If using gear other than traps, the full harvest and gear level shall be the non-trap landing limits.~~

~~2.9.2 Basic Gear and Harvest Levels:~~

- ~~A. 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:~~
- ~~1. Lobster: The same restrictions associated with the Full Harvest and Gear Level for Lobster.~~
 - ~~2. Non-Lobster Crustacean: The same restrictions associated with the Full Harvest and Gear Level for Non-Lobster Crustacean.~~

~~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.~~

~~4. Soft-shell Clam: The same restrictions associated with the Full Harvest and Gear Level for Soft-shell Clam.~~

~~5. Shellfish Other: The same restrictions associated with the Full Harvest and Gear Level for Shellfish Other.~~

~~6. Non-Restricted Finfish: The same restrictions associated with the Full Harvest and Gear Level for Non-Restricted Finfish.~~

~~7. Whelk: The same restrictions associated with the Full Harvest and Gear level for Whelk.~~

Commented [DP(71)]: Obsolete.

~~2.10~~ **2.8 Recreational Saltwater Fishing Licenses**

~~2.10.1~~ **2.8.1 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 R.I. Gen. Laws § 20-2.2-8.

~~2.10.2~~ **2.8.2 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~~ **vessels** that are licensed in accordance with R.I. Gen. Laws § 20-2-27.1; licensed party or charter ~~boat~~ **vessel** 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.

~~2.11~~ **2.9 Vessel-Based Regulations**

~~2.11.1~~ **2.9.1 Vessels Fishing Recreationally Mode:**

- A. Any vessel – including a commercially declared and/or licensed party ~~/ or~~ charter vessel – may ~~fish~~ **operate** 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.

~~2.11.2~~ **2.9.2 Party/Charter ~~Vessels~~ Mode:**

- A. Only ~~party/charter~~ vessels licensed in accordance with R.I. Gen. Laws § 20-2-27.1 may ~~fish~~ **operate** in party/charter mode.
- B. A vessel is ~~fishing~~ **operating** 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. Unless otherwise specified, vessels ~~fishing~~ **operating** 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, **possession limit** compliance ~~with possession limits while fishing for vessels~~ **operating** in party/charter mode shall be determined by dividing the total number of fish aboard the vessel by the total number of ~~recreational fishers~~ **anglers** or spearfishers aboard the vessel.
- E. If a vessel makes more than one trip in party/charter mode per day, ~~the catches~~ **any marine species possessed by** ~~attributable to~~ the captain and mate are cumulative.

Hearing item 12 (section 2.9.2): Proposed addition of reporting requirements for Party/Charter vessels:

F. Reporting:

- 1. All trips made in party/charter mode shall be documented, and submitted electronically in SAFIS.**
- 2. All trips shall be documented on board the vessel prior to the end of the fishing trip.**
- 3. All trip reports shall be submitted electronically within 48 hours of the end of the trip.**
- 4. In cases when no party/charter mode trips were made, at least one negative report must be submitted to the Department prior to renewal of license.**

2.11.3 ~~Vessels Fishing~~ Commercially Mode:

- A. Only vessels that are commercially declared may ~~fish~~ **operate** in commercial mode.
- B. A vessel is ~~fishing~~ **operating** 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~~ **operating** 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 operating** 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 operating** 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.

2.11.4 Vessels Fishing in More Than One Mode:

- A. On a per-trip basis, a vessel may only **fish operate** in recreational mode, or party/charter mode, or commercial mode. No vessel may **fish operate** in more than one mode during the same trip.
- B. A vessel that is commercially declared, pursuant to § 2.7.8(H) of this Part herein, may **fish operate** 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 operates** 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.