

**STATE OF RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

**Division of Fish and Wildlife
Marine Fisheries**

PUBLIC NOTICE CONCERNING PROPOSED RULEMAKING

Pursuant to the provisions of Chapters 42-17.1 and 20-3 of the General Laws of Rhode Island as amended, and in accordance with the Administrative Procedures Act Chapter 42-35 of the R. I. General Laws, the Department of Environmental Management (DEM) proposes to repeal several Parts of the Rhode Island Marine Fisheries Regulations and adopt a new regulation in their place.

Public comment will be solicited on the following proposals:

- 1) **Repeal** of each of the following Parts of the Rhode Island Marine Fisheries Regulations:
 - a. Part IV – Shellfish;
 - b. Part V - Bay Scallops;
 - c. Part VI - Dredging for Shellfish;
 - d. Part VIII – Oyster Regulations;
 - e. Part IX - Shellfish Buyer’s License – Statutes;
 - f. Part XVIII - Shellfish Grounds.
- 2) **Adoption** of new regulation “Rhode Island Marine Fisheries Regulations – Shellfish”, that incorporates all regulatory and management aspects of the above named regulations proposed for repeal.

There are no regulatory or management changes with the proposed rulemaking. The purpose of the proposed changes are only to streamline, de-fragment, clarify, and to remove unnecessary duplicative, obsolete, and non-regulatory (e.g., statutory, programmatic) language.

Written comments concerning the proposed rulemaking may be submitted to the Division of Fish and Wildlife, Marine Fisheries section, 3 Fort Wetherill Road, Jamestown, RI 02835, Attention: Peter Duhamel. Written comments must be received within thirty (30) days of this notice (i.e., no later than 4:00 P.M., July 17, 2014) to be entered into the public record. The Department shall consider fully all properly submitted written and oral submissions concerning the proposed rulemaking.

Upon adoption of a rulemaking, the Department, if requested to do so by an interested person, either prior to adoption or within thirty (30) days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

A public hearing concerning the proposed rulemaking will be held **only** if requested, consistent with the requirements of Chapter 42-35 of the R. I. General Laws (i.e., if requested by twenty-five (25) persons, or by a governmental subdivision or agency, or by an association having not

less than twenty-five (25) members). Such request must be received within thirty (30) days of this notice (i.e., no later than 4:00 P.M, July 17, 2014).

In the development of the proposed amendment, consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

A copy of the proposed rulemaking will be available for review from June 17 through July 17, 2014 at the DEM Marine Fisheries office located at 3 Fort Wetherill Road, Jamestown, RI 02835; and also online at the Marine Fisheries website at the following web address:
<http://www.dem.ri.gov/programs/bnatres/fishwild/pn012214.htm>.

Date Posted: 06/17/2014



~~STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT~~

~~BUREAU OF NATURAL RESOURCES~~

~~FISH AND WILDLIFE~~

~~&~~

~~LAW ENFORCEMENT~~

~~RHODE ISLAND MARINE FISHERIES STATUTES AND REGULATIONS~~

~~Part VIII Oyster Regulations~~



~~December 31, 2001~~

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

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**RHODE ISLAND MARINE FISHERIES
STATUTES AND REGULATIONS**

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**~~RHODE ISLAND MARINE FISHERIES
STATUTES AND REGULATIONS~~**

PURPOSE

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

AUTHORITY

~~These rules and regulations are promulgated pursuant to Chapter 42-17.1, 42-17.6, 20-1-2, 20-1-4, 20-3-2 thru 20-3-6, 20-4 thru 20-10 and in accordance with Chapter 42-35, Administrative Procedures, of the General Laws of 1956, as amended.~~

ADMINISTRATIVE FINDINGS

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

APPLICATION

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

DEFINITIONS

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

SEVERABILITY

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

SUPERSEDED RULES AND REGULATIONS

~~—On the effective date of these rules and regulations, all previous rules and regulations, and any policies regarding the administration and enforcement of Part VIII shall be superseded.~~

~~Rule 8. EFFECTIVE DATE~~

~~The foregoing rules and regulations Rhode Island Marine Statutes and Regulations, after due notice, are hereby adopted and filed with the Secretary of State this 31st day of December, 2001 to become effective 20 days from filing, unless otherwise indicated, in accordance with the provisions of Chapters 20-1-2, 20-1-4, 20-3-2 through 20-3-6, 20-4 through 20-10, 42-35, 42-17.1, 42-17.6 of the General Laws of Rhode Island of 1956, as amended.~~

Jan Harmen Reitsma,
Director

Notice Given: REFILE 11/29/01

Public Hearing: None requested

Filing date: 12/31/2001

Effective date: the date they are stamped received
by the Secretary of State's Office

~~R.I. Marine Fisheries Statutes and Regulations~~
~~PART VIII – OYSTER REGULATIONS~~

~~8.1 Licenses~~

~~8.1.1 Resident – A Rhode Island resident is not required to obtain a license provided he or she does not exceed the daily catch limit for residents, and the oysters shall not be sold or offered for sale. RIMFC REGULATION [Penalty– Part 3.3 (RIGL 20-3-3); (RIGL 20-6-9)] ref (RIGL 20-6-1)~~

~~8.1.2 Non-resident Shellfish License:~~

~~(a) Season – Every non-resident over the age of twelve (12) years may obtain a non-resident, non-commercial annual shellfish license for a fee of two hundred dollars (\$200).~~

~~(b) 14-day – A non-resident may obtain one non-commercial limited license per calendar year covering fourteen (14) days, including date of issue for eleven dollars (\$11.00).~~

~~— (c) Landing – A non-resident must obtain a shellfish landing license, for a fee of two hundred (\$200) to land shellfish (surf clams, blue mussels, ocean quahaugs, sea scallops) harvested outside Rhode Island waters.~~

~~(d) Non-Resident Landowner – A non-resident landowner, as defined in § 20-1-3(a)(3), who owns residential real estate in Rhode Island assessed for taxation at a valuation of not less than thirty thousand dollars (\$30,000) may, with proof of residential property ownership in the form of a current tax bill from a town or city hall showing that the non-resident landowner is current in his or her property tax obligation, obtain an annual, non-commercial, non-resident shellfish license for a fee of twenty-five dollars (\$25.00).~~

~~— (RIGL 20-2-22)~~

~~8.1.3 Commercial Shellfish Licenses:~~

~~(a) A resident older than nineteen (19) years but younger than sixty-five (65) years shall pay two hundred dollars (\$200) for a commercial license to take shellfish.~~

~~(b) A resident twenty-three (23) years or younger shall pay fifty dollars (\$50.00) for a student commercial license to take shellfish upon provision of proof of full-time student status.~~

~~— (c) Commercial shellfish licenses shall expire on December 31 of each year.~~

~~[it is the policy of the Department of Environmental Management to allow a resident sixty-five (65) years of age and older to be eligible for a commercial license to take shellfish at no cost]~~

~~—(RIGL 20-2-20)~~

~~**8.2 Minimum Size -- Three (3) inch minimum measured parallel to the long axis of the oyster. (RIMFC REGULATION) (Penalty - Part 3.3; (RIGL 20-3-3))**~~

~~**8.3 Oysters -- Open Season --** Unless otherwise specified in regulations adopted by the Marine Fisheries Council, the open season for taking oysters from the free and common oyster fisheries in any of the waters of this State shall be between the fifteenth day of September and the fifteenth day of May. Any person who shall take any oysters or exposing any oysters for sale taken from the free and common fisheries in state waters in violation of the provisions of this section shall, upon conviction, be fined no less than fifty dollars (\$50) nor more than five hundred dollars (\$500) and costs for each offense. (RIGL 20-6-2) [Penalty - Part 8.03; (RIGL 20-6-02)]~~

~~**8.4 Statewide Catch Limits (except Management Areas)**~~

Maximum Daily Take	
R.I. Resident	½ bu/day/per person
Commercial	3 bu/day/license holder
Non-resident	1 peck/day/license holder

~~(ref RIGL 20-6-1; 20-6-10)~~

~~[Penalty-Part 4.07;(RIGL 20-6-9)]~~

~~[Penalty-Part 4.04;(RIGL 20-6-10)]~~

~~**8.5 Management Areas Catch Limits --** In Green Hill Pond, Potter Pond, Pt. Judith Pond, Ninigret (Charlestown) Pond, Quonochontaug Pond, Winnapaug (Brightman) Pond, Greenwich Bay, Sheffield Cove, Hundred Acre Cove, Mill Gut, and Narrow River, the following reduced daily catch limits apply:~~

Maximum Daily Take	
R.I. Resident	1 peck/day/per person
Commercial	3 bu/day/license holder
Non-resident	½ peck/day/license holder

~~(RIMFC REGULATION) [Penalty - Part 4.04 or 4.07; (RIGL 20-6-9 or 20-6-10)]~~