

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 II



Shellfish and Finfish Harvesting Licenses

REPEALED

December 3, 2002

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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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SUPERSEDED RULES AND REGULATIONS (#1835)

On the effective date of these rules and regulations, all previous rules and regulations, and any policies regarding the administration and enforcement of Part II (#1835) shall be superseded.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 3rd day of December, 2002 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: 9/26/2002
Public Hearing: 10/29/2002

Filing date: 12/3/2002
Effective date: 20 days from filing

R.I. Marine Fisheries Statutes and Regulations
PART II - SHELLFISH AND FINFISH HARVESTING LICENSES

2.1 General.-- The Director may issue those licenses required under this Title for hunting, fishing, and the taking of fish, game, birds, shellfish, lobsters, or other wild animals within this state and its territorial waters, pursuant to those regulations that the Director deems necessary to carry out the provisions of this title. The Director may, in his or her discretion, appoint responsible citizens or corporations of the state, or of adjoining states, engaged in operating sporting goods stores to act as agents with authority to issue licenses in the manner and under the conditions as set forth below. Before such appointment shall occur, that citizen or corporation of the state or of adjoining states shall deliver to the Director a bond with a surety company authorized to do business in the state of Rhode Island. The requirements and conditions of such bond shall be established by regulation. (RIGL 20-2-1)

2.2 Issuance of Licenses. -- The clerk of any city or town and any person or corporation appointed by the Director as provided in §20-2-1 shall, upon the application of any person entitled to receive a license under this chapter and upon payment of the specified license fee, register and issue that person a license certificate in the form prescribed and upon a blank to be furnished by the Department. The certificate shall bear the name, age, occupation, place of residence, signature, and identifying description of the registrant and shall authorize the registrant to fish, or shellfish, or to pursue, hunt, and kill game in the State of Rhode Island during those seasons and in those manners and according to those conditions as shall be provided by law; provided, however, that these clerks or appointees shall not have authority to issue lobster, commercial shellfish, or commercial fishing licenses of any kind. (RIGL 20-2-2)

2.3 Record of Licenses Issued -- Accounting for Fees.--Every city and town clerk or agent appointed under this Chapter shall record all licenses issued under this chapter in books kept for that purpose, one coupon of which shall be retained in his or her record. The books shall be supplied by the Department, shall remain the property of the State, shall be open to public inspection during the usual office hours of the clerk or appointee, and shall be subject at all times to audit and inspection by the Director, by the Director of Administration or by the agents of either; and each of these clerks or appointees shall, on the first Monday of every month, pay to the Department all moneys received by the clerk or appointee for the registrations issued during the month preceding, except for recording fee, together with a receipted bill for fees retained in accordance with § 20-2-4, and shall, within thirty (30) days succeeding January first of each year, return to the said Department all registration books and unused and void certificates. The Director shall pay the money received to the General Treasurer with a list of the number and kind of registrations recorded by each city and town clerk during the month. (RIGL 20-2-3) [Penalty - Part 1.16; (RIGL 20-1-16)]

2.4 Clerk's Fee. -- Out of the fees paid under the provisions of this Chapter for issuance of hunting, fishing, combination, and non-resident shellfishing licenses, the sum of fifty cents (\$.50) shall be retained by the clerk or agent issuing each license, if this is the

case. (RIGL 20-2-4)

2.5 Replacement of Lost or Destroyed Certificate

(a) Whoever loses or by a mistake or accident destroys his or her certificate of a commercial marine fisheries license may, upon application to the department accompanied by an affidavit fully setting forth the circumstances of the loss, receive a duplicate certificate for the remainder of the year covered by the original certificate, for a fee of ten dollars (\$10) for each duplicate license.

(b) Whoever loses or by mistake or accident destroys his or her certificate of a non-commercial license may, upon application to the department accompanied by an affidavit fully setting forth the circumstances of loss, receive a duplicate certificate for the remainder of the year covered by the original certificate for a fee of two dollars (\$2). (RIGL 20-2-5)

(c) Additionally, any Certificate of Exemption or permit issued by the Division for harvest of commercial or recreational marine species is also subject to Rhode Island General Law (a) or (b) listed above.

(d) The holder of a Certificate of Exemption or permit which has been lost, stolen, or destroyed must notify the Division within seven (7) days of discovery of loss.

(e) Administrative and criminal penalties may be imposed due to the failure to comply within the time periods set forth herein or for the submission of false information in support of the instant request. Administrative penalties may include revocation of certificates, licenses or permits issued under Title 20 and eligibility of any certification, license or permit may be forfeited.

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

2.6 False Statements and Violations - Cancellation of License. -- Any person who willfully makes a false representation as to birthplace or requirements of identification or of other facts required in an application for license under this chapter, or is anyway directly or indirectly a party to such a false representation, shall be punished by a fine of not more than fifty dollars (\$50). A license obtained by any person through such a false representation shall be null and void, and the license shall be surrendered immediately to the Director. No license shall be issued under this Title to this person for a period of one year from the date of conviction. (RIGL 20-2-8)

2.7 Possession, Inspection, and Display of License. -- Every person holding a license issued under this chapter shall have that license in his or her possession at all times while engaged in the licensed activity and shall present the license for inspection on demand by any authorized person. In the case of freshwater fishing, the licensee shall wear in any manner plainly visible upon the licensee's person while fishing, an identifying device as the Director may prescribe, that device to be furnished by the Director at a minimum cost to the licensee. Any person who shall refuse to present a license on demand shall be liable to the same punishment as if that person were hunting or fishing without a license. (RIGL 20-2-9) [Penalty - Part. 1.16; (RIGL 20-1-16)]

2.8 Endorsement of License. -- No license issued under this chapter shall be valid until endorsed by the licensee in his or her own handwriting. (RIGL 20-2-10)

2.9 Transfer or Loan of License. -- Unless otherwise provided in this Title provided, a license issued to a person under this chapter shall be good only for the person to whom it is issued; and any transfer or loan of that license shall be grounds for revocation or suspension of that license pursuant to § 20-2-13. (RIGL 20-2-11)

(a) A vessel owner wishing to transfer any permit or Certificate of Exemption issued by the Division must apply to the Division for approval. If approved for a transfer, all vessel permits (state and federal) shall be transferred together only.

(1) any vessel permit or Certificate of Exemption and fishing history cannot be split;

(2) permits or certificates may not be combined to create larger replacement vessels;

(3) a vessel with a Federal Moratorium Permit or Certificate of Exemption can be replaced by another vessel and the permit transferred voluntarily.

(4) only one vessel transfer based upon the original issuance of certificate is allowed for the Certificate of Exemption or permit.

(b) Any permit or Certificate of Exemption issued by the Division pursuant to Title 20 RIGL is only valid for the person/vessel to which it is issued. In instances of a permitted vessel, the owner of that vessel may either transfer the permit or Certificate of Exemption along with the vessel to a new owner, or retain the permit or Certificate of Exemption and apply it within ninety (90) days to another vessel that he owns.

(c) Certificates of Exemption or permits may not be:

(1) pledged, mortgaged, leased, or encumbered in any way;

(2) transferred with any retained right of repossession or foreclosure, or any condition requiring a subsequent transfer; or

(3) attached, distrained, or sold on execution of judgement.

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

2.10 Application for License. -- Every person entitled to a license under this chapter shall file an application with the Director or the Director's authorized agent or any city or town clerk, properly sworn to, stating the name, age, occupation, place of residence, nationality, weight, height, and color of hair and eyes of the applicant for whom the license is wanted and pay the fees as provided in this chapter. All licenses issued under this chapter shall be valid only for the calendar year of issuance, unless otherwise specified in this Title or in the rules and regulations adopted pursuant to this title. (RIGL 20-2-12)

2.11 License Revocation. -- The license of any person who has violated the provisions of this title or the rules and regulations issued pursuant to this title may be suspended or revoked by the director in any manner and for any period as the director shall determine by regulation. Any person aggrieved by an order of suspension or revocation may appeal this order in accordance with the provisions of the Administrative Procedures Act, Chapter 35 of Title 42. (RIGL 20-2-13)

2.12 Licenses Expiration. -- (a) Unless otherwise in this title, all licenses issued under this title shall be annual and shall expire on December 31 of every year.

(b) Notwithstanding the provisions of subsection (a) of this section, all commercial fishing licenses issued under §§ 20-2-20(a), 20-2-20(b), 20-2-21, 20-2-24(a), 20-2-25, 20-2-26, 20-2-26.1(a), 20-2-27(a), 20-2-27(b), 20-2-27(c), 20-2-28(a), and 20-2-28.1(a) shall be annual and shall expire on June 30 of every year. The fee for any of these commercial fishing licenses issued under this section between January 1, 1999 and June 30, 1999, which is to expire on June 30, 1999, shall be one-half (1/2) of the amount otherwise provided in this title. (RIGL 20-2-14)

2.13 Commercial Minnow License. -- The fee for a commercial minnow license shall be twenty dollars (\$20). The license shall be valid only during the season [*calendar year*] in which it is issued. (RIGL 20-2-19)

2.14 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) 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)

2.15 Shellfish Dredging License Fees. -- A resident of this State shall pay an annual fee of two hundred dollars (\$200) for a license to take quahaugs, mussels, and surf clams by dredges hauled by power boat. (RIGL 20-2-21)

2.16 Shellfish License Non-Resident.

(a) 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) 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).

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

(d) 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 (\$30,000.00) 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)

(RIGL 20-2-22)

2.17 Shellfish Buyer's License. -- The annual fee for a shellfish buyer's license is two hundred dollars (\$200). (RIGL 20-2-23)

2.18 Lobster License.

- (a) Commercial: Two hundred dollars (\$200). The license shall be issued only to a legal resident of the state who is the operator of a Rhode Island registered vessel.
- (b) Non-Commercial Pot: Forty dollars (\$40). The license shall be issued only to a legal resident of the state of Rhode Island.
- (c) Non-Commercial Divers: Forty dollars (\$40). The license shall be issued only to a legal resident of the state of Rhode Island.
- (d) Sellers: Two hundred dollars (\$200).
- (e) Rhode Island Lobster Dealer: Two hundred dollars (\$200).

(RIGL 20-2-24)

2.19 Scallop License/Commercial: Two hundred dollars (\$200). The license is only issued to a resident of this State and shall be valid only for the season for which issued. (RIGL 20-2-25)

2.20 Fish Trap License Fees: -- Two hundred dollars (\$200) per license and twenty dollars (\$20) per trap location in accordance with provisions of Chapter 5 of this Title. (RIGL 20-2-26)

2.21 Gill Net License:

- (a) Each resident of the state is eligible to obtain a license to utilize gill nets upon payment of an annual fee of two hundred dollars (\$200) subject to rules and regulations established by the Marine Fisheries Council.
 - (b) Each resident who holds a multi-purpose commercial marine license as provided in § 20-2-28.1, or a commercial vessel or vessel operator's license as provided in § 20-2-27(c) is also eligible to apply for a commercial gill net permit in accordance with the provisions of this section. The annual recording fee for commercial gill netting is twenty dollars (\$20) and shall be paid in addition to the fees payable under §§ 20-2-27(c) and 20-2-28.1
- (RIGL 20-2-26.1)

2.22 Commercial Fishing Licenses:

- (a) Rod and Reel (for sale of finfish lawfully taken by rod and reel or diving): two hundred dollars (\$200).
- (b) Individual (for named individual only, lawfully taking fish for sale with use of nets or other means without use of boat): two hundred dollars (\$200).
- (c) Commercial Vessel or Vessel Operators Engaged in a Commercial Fishery, excepting those vessels or operators of vessels covered by § 20-2-24 (lobster fishery), §§ 20-2-20 and 20-2-21 (shellfishery), or § 20-2-28 (non-resident otter trawl):

- (1) Vessels up to fifty feet (50') in total length: two hundred dollars (\$200);
 - (2) Vessels from fifty feet (50') to ninety-nine feet (99') in total length: two hundred fifty dollars (\$250);
 - (3) Vessels from ninety-nine feet (99') or more in total length: twenty dollars (\$20) per lineal foot or any part thereof of the registered length of the vessel;
 - (4) Miscellaneous pot fishery, vessels not licensed in any of the above categories engaged in commercial scup, crab, eel, or conch pot fishery: two hundred dollars (\$200). This license shall be issued only to a legal resident of the state of Rhode Island.
- (d) Rhode Island Finfish Dealer: two hundred dollars (\$200).

(RIGL 20-2-27).

2.23 Rhode Island Party and Charter Boat License. -- (a) All party and charter boats carrying recreational passengers to take or attempt to take marine fish upon the navigable state and coastal waters of Rhode Island shall be required to obtain a Rhode Island party and charter boat license. The licenses shall be issued by the department on a biennial basis for a fee of twenty-five dollars (\$25) per vessel. All licensed party and charter boats shall be required to display a party and charter boat decal provided by the department. To obtain a license, the owner of a qualified vessel must submit:

- (1) A current copy of the operator's U.S.C.G. license to carry passengers for hire;
- (2) A current copy of the vessel's "Certificate of Documentation" certifying that the vessel is documented "Coastwise," or if the vessel is under five (5) net tons, a copy of the vessel's state registration;
- (3) Proof that the operator and crew are currently enrolled in a random drug testing program that complies with the federal government's 46CFR "Drug Testing Program" regulations; and
- (4) A signed license application form certifying that the vessel is and will be operated in compliance with all state and federal safety regulations for the vessel.

(b) Rhode Island party and charter boat licenses shall expire on the last day of February every other year, with the first expiration date being in February 2001.
(RIGL 20-2-27.1)

2.24 Non-resident Otter, Beam, or Pair Trawl Fees

(a) Any resident of a state which accords to residents of Rhode Island reciprocal commercial fishing privileges may obtain a license for the setting of an otter, beam, or pair trawl, or other mechanical trawling device in those areas of the state's waters where such a device is allowed upon application therefor and payment of a fee computed on the basis of ten dollars (\$10) per lineal foot or part thereof of the registered length of the vessel to be licensed, as indicated on its document, certificate of award, register, enrollment, or license issued by the United States collector of customs. This license is non-transferable and is issued annually for the fee specified on the first day of January in each year and expires on the succeeding December 31st. If it appears in the public interest, the Director may suspend or cancel this license on ten (10) days' notice in writing to the holder thereof.

(b) Non-resident finfish landing license: to land finfish harvested outside Rhode Island waters, two hundred dollars (\$200).

(c) Non-resident miscellaneous landing license; to land all other seafood products not specified under any other provisions of this chapter, two hundred dollars (\$200).

(RIGL 20-2-28)

2.25 Multipurpose License - Fees

(a) Each resident of this State shall be eligible to obtain a multipurpose commercial marine license to participate in all commercial marine fisheries licensed subject to this Chapter upon payment of an annual fee of three hundred dollars (\$300). [NOTE: *resident gillnetters see section 2.21 (b) of this part*]

(b) Multi-purpose Rhode Island Dealers Licenses: This license allows persons to deal all marine products in the state of Rhode Island, three hundred dollars (\$300).

(RIGL 20-2-28.1)

2.26 Deposit of Fees. --In any fiscal year moneys generated from license fees provided for in §§ 20-2-20 to 20-2-28.1, over and above the sum of two hundred thousand dollars (\$200,000), shall be deposited with the General Treasurer and appropriated to the Department of Environmental Management. The State Controller is authorized and directed to draw orders upon the General Treasurer for payment of any sum or sums as may be necessary from time to time upon receipt by him or her of duly authenticated vouchers presented by the Director of Environmental Management. The moneys received under this Section are to be used only for the following specific purposes:

- (a) For protection and propagation of marine fish, lobsters, and shellfish;
- (b) For additional enforcement of the marine fishery regulations;
- (c) For transplanting shellfish from closed areas;
- (d) For fishing port development and construction;
- (e) For staff support of, and expenses incurred by the Marine Fisheries Council; and
- (f) For lease and purchase of land or acquisition of conservation easements.

(RIGL 20-2-28.2)

2.27 Inspections, Condition of License. -- All persons granted a license under the provisions of this Chapter are deemed to have consented to the reasonable inspection of any boat, vessel, net, rake, bullrake, tong, dredge, trap, pot, vehicle, structure, or other contrivance used regularly for the keeping or storage of fish, shellfish, crustaceans, or any game bag, firearms, creel, box, locker, basket, crate, blind, stand, or hunting, fishing or trapping paraphernalia used in conjunction with the licensed activity by persons duly authorized by the Director.

(RIGL 20-2-32)

2.28 Altering and Counterfeiting a License. -- Every person who falsely makes, alters, forges, or counterfeits, or who causes to be made, altered, forged, or counterfeited, a

license issued under this Title or purporting to be a license issued under this Title, or who shall have in his or her possession such a false, altered, forged, or counterfeit license, is guilty of a misdemeanor and is subject to the penalties prescribed in § 20-1-16. (RIGL 20-2-33)