

**250-RICR-40-20-13**

## **TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

### **CHAPTER 40 – AGRICULTURE AND RESOURCE MARKETING**

#### **SUBCHAPTER 20 – MARKETING**

PART 13 – Rules and Regulations Governing the Rhode Island Seafood Brand and the Mislabeling of Marine Species

#### **13.1 Purpose**

- A. The purposes of these Regulations are:
1. To establish a Rhode Island Seafood Brand, or logo, to be administered by the Department of Environmental Management, for use in identifying and promoting Rhode Island seafood products;
  2. To adopt Rules and Regulations governing the use of the Rhode Island Seafood Brand, or logo; and
  3. To further guard against the mislabeling or misrepresentation of marine species and seafood products produced and sold in Rhode Island.

#### **13.2 Authority**

These Regulations are adopted pursuant to R.I. Gen. Laws Title 20, Fish and Wildlife, Chapters 42-17.1, 42-17.6, and 42-17.7, and §§ 2-1-8 and 2-1-9, consistent with Chapters 21-31 and 23-1, and in accordance with Chapter 42-35, the Administrative Procedures Act.

#### **13.3 Administrative Findings**

- A. R.I. Gen. Laws § 2-1-8 vests the Director of the R.I. Department of Environmental Management with the authority to establish and administer programs to promote the marketing of Rhode Island seafood products grown and produced in Rhode Island for the purpose of encouraging the development of the commercial fishing and agricultural [aquaculture] sectors in the State. In accordance with this authority and purpose, and consistent with recommendations set forth by the Rhode Island Seafood Marketing Collaborative, established pursuant to R.I. Gen. Laws Chapter 20-38, the Director has determined that a Rhode Island Seafood Brand will serve the interests of the State by:
1. Enhancing opportunities to identify, access, and enjoy Rhode Island seafood;

2. Bolstering consumer awareness and confidence regarding the nature and source of Rhode Island seafood; and
  3. Elevating the status of Rhode Island seafood in the marketplace, thereby increasing demand and consumption, contributing to a more stable and resilient local food system, and yielding greater economic value for Rhode Island seafood.
- B. The Director further finds that the marketing of Rhode Island seafood products would be enhanced, if consistent with the authority of the Rhode Island Department of Health pursuant to R.I. Gen. Laws Chapters 23-1 and 21-31 and the Director's authority pursuant to R.I. Gen. Laws §§ 2-1-8 and 2-1-9, purchasers of marine products were afforded additional protection against the mislabeling or misrepresentation of Rhode Island seafood products.

### **13.4 Application**

The terms and provisions of these Rules and Regulations shall be liberally construed to permit the Department to effectuate the purpose of State law, goals, and policies.

### **13.5 Definitions**

- A. For the purpose of these Regulations, the following terms shall have the following meanings:
1. "Authorized seafood dealer" means a person duly licensed by the State of Rhode Island to sell, purchase, barter, and/or trade seafood products obtained directly from a duly licensed commercial fisher or commercial aquaculturist. The term shall also include those commercial fishers who are authorized to sell live lobsters and crabs directly to consumers pursuant to § [90-00-2.7.6\(l\)](#) of this Title. The term shall also include holders of Direct Sale Dealer Licenses issued pursuant to § [90-00-7.13](#) of this Title.
  2. "Authorized seafood retailer" means a person or business duly licensed by the State of Rhode Island as a food market or food business, pursuant to [216-RICR-50-10-1](#), Rhode Island Food Code, and thereby authorized to sell seafood products obtained from an authorized seafood dealer or seafood wholesaler.
  3. "Authorized seafood wholesaler" means a person or business duly licensed by the State of Rhode Island to sell, purchase, barter, and/or trade seafood products obtained from a duly licensed commercial fisher, commercial aquaculturist, authorized seafood dealer, or other authorized seafood wholesaler.

4. "Authorized user" means any authorized seafood dealer, authorized seafood retailer, or authorized seafood wholesaler engaged in sales or donations of Rhode Island seafood products in Rhode Island.
5. "Commercial aquaculturist" means an individual, firm, partnership, association, academic institution, municipality, or corporation, duly licensed by the State of Rhode Island to conduct commercial aquaculture in Rhode Island, pursuant to R.I. Gen. Laws Chapter 20-10.
6. "Commercial fisher" means a person duly licensed by the State of Rhode Island to harvest and/or land seafood products in Rhode Island, pursuant to R.I. Gen. Laws Chapter 20-2.1.
7. "Department" means the Rhode Island Department of Environmental Management.
8. "Land" means to transfer seafood products directly from a commercial aquaculturist or a commercial fisher to an authorized seafood dealer for sale or intended sale.
9. "Person" means an individual, corporation, partnership, or other legal entity.
10. "Rhode Island seafood products" means any marine species that have been grown in Rhode Island waters by commercial aquaculturists and any marine species that have been landed in Rhode Island by commercial fishers, pursuant to all applicable State and Federal Regulations.

### **13.6 General Requirements**

- A. A Rhode Island Seafood Brand (the "brand") is hereby established and depicted in the attachment to these Regulations which is designated as § 13.11 of this Part.
- B. The brand is subject to the full ownership of, and control by, the Department.
- C. Any alteration or modification of the brand is prohibited without the express written consent of the Department.
- D. The brand may be used by anyone for the purpose of promoting Rhode Island seafood products.
- E. Authorized users may use the brand to identify, market, sell, and/or donate Rhode Island seafood products subject to the following provisions:
  1. Upon request, and no later than ten (10) days following such request, authorized users must be able to verify that a product identified, promoted, marketed, sold, and/or donated as a Rhode Island seafood product was

landed in Rhode Island or grown in Rhode Island waters. Verification may be in the form of a valid SAFIS dealer report, a receipt of sale stemming from a valid SAFIS dealer report, or any other verifiable chain of custody stemming from a valid SAFIS dealer report.

2. Authorized users of the brand are responsible for ensuring that the brand is used properly, i.e., if applied to packaging, only applied to packaging that contains Rhode Island seafood products; or if used in display cases or on menus, only applied to products or menu items involving Rhode Island seafood products. If using the brand to distinguish Rhode Island seafood products, the co-mingling of Rhode Island seafood products with seafood products from other States is prohibited.

### **13.7 Mislabeling of Marine Species**

No person shall offer for barter, trade, or sale a seafood product that is mislabeled as prohibited by R.I. Gen. Laws Chapters 23-1 or 21-31, i.e., represented to be a species other than the species that it actually is.

### **13.8 Penalties**

- A. Any authorized user whose license to purchase, sell and/or donate seafood products in Rhode Island is deemed or rendered invalid by any Federal, State, or municipal authority shall be prohibited from using the brand for any purpose until such time as the license is deemed or rendered valid.
- B. Any authorized user convicted of a violation of R.I. Gen. Laws Chapters 23-1 or 21-31 pertaining to the mislabeling of marine species, or any Rule or Regulation promulgated by the Department of Health pursuant thereto, may be subject to enforcement action and/or penalty imposed by the Department of Health.
- C. Any authorized user, found to have improperly used the brand, in violation of any of the provisions of these Regulations, shall be subject to the following penalties:
  1. First (1<sup>st</sup>) violation – up to thirty (30) days suspension of the authorization to use the brand;
  2. Second (2<sup>nd</sup>) violation – up to ninety (90) days suspension of the authorization to use the brand;
  3. Third (3<sup>rd</sup>) violation – up to three hundred sixty-five (365) days suspension of the authorization to use the brand; and,
  4. Fourth (4<sup>th</sup>) and successive violations – revocation of the authorization to use the brand.

- D. Pursuant to this subsection, an incident involving improper use of the brand shall be considered a single violation, regardless of the extent of the incident, including the quantities involved.

### **13.9 Appeals**

- A. In accordance with R.I. Gen. Laws § 42-17.7-9, Administrative Hearings:
1. Any person who seeks an adjudicatory hearing in order to contest an enforcement action which alleges a violation(s) of these Rules and Regulations must file said request in writing with the clerk of Administrative Adjudication Division, 235 Promenade Street, Third Floor, Providence, Rhode Island 02908 within twenty (20) calendar days of receipt of the contested agency enforcement action.
  2. Any person who seeks an adjudicatory hearing relative to denial of the issuance of an authorization to use the brand arising under these Rules and Regulations must file said request in writing with the clerk of Administrative Adjudication Division, 235 Promenade Street, Third Floor, Providence, Rhode Island 02908 within thirty (30) calendar days of receipt of the contested agency action.

### **13.10 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.

## 13.11Appendix 1



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PART 13 - RULES AND REGULATIONS GOVERNING THE RHODE ISLAND  
SEAFOOD BRAND AND THE MISLABELING OF MARINE SPECIES (250-RICR-  
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