~~250-RICR-90-00-22~~

~~TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT~~

~~CHAPTER 90 – MARINE FISHERIES~~

~~SUBCHAPTER 00 – N/A~~

~~PART 22 – Commercial Marine Fishing Licenses Issued between January 1, 2022 and June 30, 2022 that remain in effect through December 31, 2022~~

~~22.1 Purpose~~

~~A new statute effectuated on July 1, 2022, altered the previous commercial fishing license structure as described in Part 2 of this Subchapter, thus eliminating the Commercial Fishing License (CFL) and Principal Effort License (PEL) license types, as well as all the fishery endorsement types including Restricted Finfish, Non-Restricted Finfish, Quahaug, Soft-shell Clam, Shellfish Other, Whelk, Crustacean, and Non-lobster Crustacean. In response, Part 2 of this Subchapter was amended to reflect the new license structure; to be effective on July 1, 2022 consistent with the effective date of the statute. The purpose of these Regulations is to maintain Regulations in place pertinent to licenses issued between January 1, 2022 and June 30, 2022, and which remain in effect through December 31, 2022. Licenses and endorsements issued beginning July 1, 2022 will be issued pursuant to Part 2 of this Subchapter, as amended with an effective date of July 1, 2022.~~

~~22.2 Authority~~

~~These 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, the Administrative Procedures Act.~~

~~22.3 Superseded Rules and Regulations~~

~~On the effective date of this Part, all previous Regulations, and any policies regarding the administration and enforcement of 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20-2.1 ("Commercial Fishing Licenses"), and 20-3.1 ("Marine Fisheries Management Modernization"), shall be superseded, provided that Regulations promulgated by the Director will remain in effect until amended or replaced.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 expiration date of these Regulations shall be governed by the Regulations in effect at the time the enforcement action was taken or application was filed.~~

22.4 Definitions

See Part 1 of this Subchapter.

22.5 General Management and Licensing Regulations

22.5.1 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

Control date: A control date of December 31, 2007 is established for the soft-shell clam fishery in Rhode Island. This control date has been established by the Department for potential future use in establishing eligibility criteria for future access to the fishery.

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 from January 1 through April 30, and from 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 (5) species specified in the Restricted Finfish Endorsement category, and

h. Whelk: All whelk species available for commercial harvest.

B. Limits on entry: The Department may establish entrance/exit ratios, lotteries, waiting lists, or other allocation measures as a means for limiting entry consistent with fisheries management plans.

22.5.2 Data Reporting

A. The holder of any type of commercial fishing license or landing license shall be deemed to have consented to providing such fishery-related information as the

Director may require. Reporting shall be required on forms or in a format as prescribed by the Director.

B. The Department will provide applicants with applicable reporting methods at the time of license issuance or renewal.

C. Commercial trips shall be accurately logged in the Paper Catch and Effort Harvester Logbook or entered in an electronic device, prior to offloading. Minimum trip elements shall include, but are not limited to:

1. Trip date

2. Area fished

3. Vessel State Registration or USCG Documentation number

4. Gear type(s) fished

5. Quantity of gear fished

6. Fishing time

7. Species

8. Pounds or count of species caught

9. Disposition

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 1 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 1 of the current year entered electronically.

E. Due dates for the submittal of paper reports to DMF:

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.

F. Captains enrolled in an electronic logbook program shall submit trip reports not later than forty-eight (48) hours after the end of the trip.

G. 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.

H. Party or charter vessel reporting:

1. Trips made as a party or charter vessel shall be logged and submitted electronically in SAFIS.

2. Trips shall be logged prior to the termination of the trip and submitted electronically within forty-eight (48) hours of the end of the trip. Trip elements shall include, but are not limited to:

a. Trip date

b. Area fished

c. Gear type(s) fished

d. Quantity of gear fished

e. Number of anglers on trip

e. Fishing time

f. Pounds or count of species caught

g. Disposition

3. In years when no party or charter trips were made, at least one (1) negative report must be submitted.

4. Failure to submit reports shall result in one (1) of the following actions: license suspension, revocation or ineligibility to renew.

22.5.3 Commercial Licenses

A. Other requirements:

1. A license must be signed by the party to whom it is issued in order to be valid.

2. Licenses may not be transferred to another person.

3. All fees must have been paid for a license to be valid.

4. A lost or accidentally destroyed license may 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. 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 Licensing of his or her former and current address.

6. Expiration. Unless otherwise specified, all licenses issued pursuant to this Part shall expire on December 31 annually. It shall be unlawful for any person to fish commercially in the marine waters of Rhode Island on an expired license.

7. Every license holder shall have their license in possession at all times while engaged in the licensed activity and shall present the license for inspection on demand by the Director. Any person who shall refuse to present a license on demand shall be liable to the same punishment as if that person were fishing without a license.

22.5.4 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:

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 (CFL):

1. Applicants must provide proof of Rhode Island residency and pay an annual fee of fifty dollars ($50.00), plus twenty-five dollars ($25.00) per fishery endorsement.

2. The holder of a CFL may participate in any fishery sector for which he or she holds an endorsement.

C. Principal Effort License (PEL):

1. Eligible applicants must present proof of Rhode Island residency and pay an annual fee of one hundred fifty dollars ($150.00) which entitles them to fish in a single fishery endorsement category.

2. The holder of a PEL may participate in any fishery sector for which he or she holds a fishery endorsement.

3. The holder of a PEL may also obtain a Commercial Fishing License with applicable endorsements to fish other sectors, and/or obtain additional fishery endorsements on his or her PEL to fish other sectors, if such endorsements are available for any given license year; provided that a license holder may not hold both a PEL and CFL in the same fishery sector. The annual fee for additional fishery endorsements on Principal Effort Licenses is seventy-five dollars ($75.00) each.

4. The holder of a CFL or a PEL 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 all other applicable fees, including but not limited to fees for the Non-Lobster Crustacean, Lobster, Non-Restricted Finfish, Restricted Finfish, as well as all additional Gear, Dockside Sales, and Paper Catch and Effort Harvester Logbook Endorsements on their CFL or PEL.

D. Multi-Purpose License:

1. Eligible applicants must present proof of Rhode Island residency and pay an annual fee of three hundred dollars ($300.00).

2. The holder of a Multi-Purpose License is authorized to participate in all fishery endorsement sectors.

E. Student Shellfish License:

1. Applicants must present proof of Rhode Island residency and pay an annual fee of fifty dollars ($50.00).

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 is authorized to participate only in the quahaug fishery.

5. The holder of a Student Shellfish License may also obtain a Commercial Fishing License and/or a Principal Effort License, with endorsements, 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. Sixty-Five (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 Sixty-Five (65) and Over Shellfish License is authorized to participate only in the quahaug fishery.

5. The holder of a Sixty-Five (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, if such licenses or endorsements are available and the application requirements are met for any given license year; provided that the holder of a Sixty-Five (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 Endorsement shall authorize the license holder to set one (1) 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 ($20.00) per trap location for a three (3) year period. Applicants who possessed a valid Fish Trap 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 fisheries management plans.

3. The Gill Net Endorsement shall authorize the license holder to set a gill net in accordance with all applicable Regulations. The annual fee shall be twenty dollars ($20.00). Applicants who possessed a Gill Net 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 fisheries management plans.

4. The Purse Seine and Mid Water/Pair Trawl Endorsements shall authorize 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 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 ($20.00). New Purse Seine or Mid Water/Pair Trawl Endorsement opportunities shall be established by Rule, pursuant to fisheries management plans.

   a. Control date: A control date of December 31, 2007 is established for the purse seine and mid-water/pair trawl fisheries in Rhode Island. This control date has been established by the Department for potential future use in establishing eligibility criteria for future access to the fishery.

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 or 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 ($25.00) per vessel for vessels up to and including twenty-five feet (25') in length, plus fifty cents ($0.50) per linear foot for each whole foot over twenty-five feet (25').

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 feet (25') long may obtain a vessel declaration plate upon payment of an additional annual fee of fifteen dollars ($15.00). The vessel declaration of the declared vessel may be temporarily transferred to another vessel less than twenty-five feet (25') long by affixing the aforementioned plate to that vessel. This vessel declaration transfer shall not exceed sixty (60) days, with one sixty (60) day extension in any given year by permission of the Department.

I. Dockside Sales Endorsement:

1. Applicability: The endorsement shall authorize the license 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. Eligibility: 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. Dockside sales made pursuant to the Dockside Sales Endorsement must be reported to the Department with a Paper Dockside Sales Endorsement Logbook issued by the Department. There is no additional fee for this logbook.

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

   b. 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 Endorsement Logbook.

4. 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 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. The annual fee for the Dockside Sales Endorsement shall be twenty-five dollars ($25.00).

11. The Dockside Sales Endorsement is not subject to an application deadline.

J. Research Set Aside (RSA) Endorsement:

1. Applicability: The RSA Endorsement shall authorize 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 RSA Endorsement and the Exempted Fishing Permit must be obtained prior to the landing of any RSA quota for State quota monitored species in Rhode Island.

4. Upon presentation of a valid Exempted Fishing Permit from the Department, an RSA Endorsement will be issued.

5. Annual fee: Twenty-five dollars ($25.00)

6. The RSA Endorsement is not subject to an application deadline.

K. Paper Catch and Effort Harvester Logbook Endorsement:

1. Applicability: The Paper Catch and Effort Harvester Logbook Endorsement shall authorize the license holder to use a Paper Harvester Catch and Effort Logbook in lieu of electronic reporting to report catch and effort information. The Paper Catch and Effort Harvester Logbook is issued by the Director.

2. If declared as the reporting method, the Paper Catch and Effort Harvester Logbook Endorsement fee must be paid at the time of application.

3. Paper Catch and Effort Harvester Logbook submissions will not be accepted from a license holder who does not hold the endorsement.

4. Annual fee: Twenty-five dollars ($25.00)

22.5.5 Licenses, Endorsements and Vessel Declarations; Non-Resident

A. Non-Resident fishery endorsements: Any CFL or PEL 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:

1. Non-Restricted Finfish.

2. Restricted Finfish.

B. Non-Resident Commercial Fishing License (CFL):

1. Applicants must be at least eighteen (18) years old.

2. The holder of a Non-Resident CFL may participate in either or both fishery sectors for which he or she holds an endorsement, provided that his or 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 this Part. For applicants from any other State, it shall be the applicant's burden to prove that his or her State of residence provides Rhode Island residents the privileges referenced in 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 (2) weeks before a license may be issued.

4. Annual fee: One hundred fifty dollars ($150.00) plus fifty dollars ($50.00) per endorsement

C. Non-Resident Principal Effort License (PEL):

1. Applicability: The holder of a Non-Resident PEL is authorized to harvest, land and sell any species of fish for which he/she holds the appropriate endorsement(s) – Restricted and/or Non-Restricted Finfish.

2. Eligibility: Eligible applicants must demonstrate that their State of residence complies with this Part regarding treatment of Rhode Island residents.

3. Annual fee: Four hundred dollars ($400.00), plus one hundred dollars ($100.00) per endorsement

D. Non-Resident Vessel Declaration:

1. Applicants must comply with the vessel declaration resident requirements of this Part, provided that temporary transfers of vessel declarations between vessels less than twenty-five feet (25') in length via vessel declaration plates are not permitted.

2. Annual fee: Fifty dollars ($50.00), plus one dollar and fifty cents ($1.50) for each whole foot over twenty-five feet (25') in length overall

22.5.6 Commercial Fishing License Translation

A. New statute effectuated on July 1, 2022, altered the previous commercial fishing license structure. This section provides a translation table to identify the new commercial fishing license type and applicable fishery endorsements, given the previous license. See Part 2 of this Subchapter for applicable rules and regulations pertaining to all commercial fishing licenses issued beginning July 1, 2022.

1. The new license structure that takes effect on July 1, 2022, and is reflected in Part 2 of this Subchapter, applies to new license issuance on or after July 1, 2022.

a. All commercial fishing licenses issued between January 1, 2022, and June 30, 2022, remain valid and in effect until their expiration on December 31, 2022.

b. Commercial fishing license renewals for the 2023 fishing year shall adhere to the licensing structure in Part 2 of this Subchapter.

c. All business transfers occurring on or after July 1, 2022, shall adhere to the licensing structure in Part 2 of this Subchapter.

2. There are no changes to the licensing structure for the Multipurpose commercial fishing license, resident landing permit, non-resident landing permit, non-resident exempted landing permit, Over 65 shellfish license, or student shellfish license.

3. Any person who was previously issued a CFL or PEL commercial fishing license, who would under the new structure in the translation table below have an unlimited shellfish endorsement, unlimited finfish endorsement, and unlimited crustacean endorsement shall be issued a new Multipurpose license.

4. The following translation table is for all CFL and PEL fishery sector endorsements.

a. All CFL and PEL license holders will now be issued a Standard license beginning on July 1, 2022.

b. For each fishery sector (shellfish, finfish, and crustacean), find the endorsement or endorsement combination you currently have on your license under 'Old Endorsements' and look at the same row under 'New Endorsements' to find the new corresponding endorsement type you will be issued.

Old Endorsements	New Endorsements
SHELLFISH	
Quahaug	Unlimited Shellfish
Soft-shell clam	Unlimited Shellfish
Shellfish Other	Limited Shellfish
Whelk	Unlimited Shellfish
Quahaug, Soft-shell clam	Unlimited Shellfish
Quahaug, Shellfish Other	Unlimited Shellfish
Quahaug, Whelk	Unlimited Shellfish
Shellfish Other, Soft-shell clam	Unlimited Shellfish
Shellfish Other, Whelk	Unlimited Shellfish
Soft-shell clam, Whelk	Unlimited Shellfish
Quahaug, Shellfish other, Soft-shell clam	Unlimited Shellfish
Quahaug, Shellfish other, Whelk	Unlimited Shellfish
Quahaug, Soft-shell clam, Whelk	Unlimited Shellfish

~~Shellfish Other, Soft-shell clam, Whelk~~	~~Unlimited Shellfish~~
~~Quahaug, Shellfish Other, Soft-shell clam, Whelk~~	~~Unlimited Shellfish~~
~~FINFISH~~	
~~Non-restricted finfish~~	~~Limited Finfish~~
~~Restricted Finfish~~	~~Unlimited Finfish~~
~~Non-restricted Finfish, Restricted Finfish~~	~~Unlimited Finfish~~
~~CRUSTACEAN~~	
~~Non-Lobster crustacean~~	~~Limited Crustacean~~
~~Lobster crustacean~~	~~Unlimited Crustacean~~
~~Lobster crustacean, Non-lobster crustacean~~	~~Unlimited Crustacean~~