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TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 90 – MARINE FISHERIES

SUBCHAPTER 00 – N/A

PART 2 – COMMERCIAL MARINE FISHING LICENSES, LANDING PERMITS, AND PARTY AND CHARTER LICENSES

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2.1 Purpose

A. 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

A. 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.

2.3 Application

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

2.4 Severability

A. If any provision of these 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 Regulations shall not be affected thereby.

2.5 Superseded Rules and Regulations

A. 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20-2.1 (“Commercial Fishing Licenses”), and 20-3.1 ("Marine Fisheries Management Modernization”), shall be superseded, provided that Regulations promulgated by the Director or the Rhode Island Marine Fisheries Council pursuant to R.I. Gen.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 Regulations shall be governed by the Regulations in effect at the time the enforcement action was taken or application was filed.

2.6 Definitions

A. See Part 1 of this Subchapter.

2.7 Commercial Fishing Licenses

2.7.1 General Applicability

A. No person shall catch, harvest, hold, or transport for sale in Rhode Island or in the marine waters of Rhode Island any marine species without a license issued by the Director pursuant to these Regulations and Part 7 of this Subchapter.

B. Exemptions. A license is not required for the following:

1. Crews assisting in direct commercial harvest operations for all commercial fisheries except shellfish, regardless of the manner, method, or contrivance employed, as long as said crew is/are located onboard a commercially declared vessel that is owned by an individual issued a valid commercial Multipurpose Vessel License, or operated by an individual who possesses a valid and proper commercial fishing license and is/are under the direct supervision and responsibility of a vessel operator issued a valid permit by the Department or properly licensed commercial fisher.

2. Crews assisting only with culling activities and other indirect harvest operations with respect to commercial shellfish operations, while said crew is/are located onboard a commercially declared vessel that is owned by an individual issued a valid commercial Multipurpose Vessel License, or operated by an individual who possesses a valid and proper commercial fishing license and is/are under the direct supervision and responsibility of a vessel operator issued a valid permit by the Department or properly licensed commercial fisher.

2.7.2 General Provisions

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

B. Licenses may not be transferred to or used by any person to whom the license is not issued.

C. Submission of application does not constitute a valid license.

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

E. 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.

F. 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. Any notice will be sent by regular mail to the mailing address given on the license holders last license application or change of address form.

G. Expiration. Unless otherwise specified, all licenses issued pursuant to this Part shall expire on December 31 annually. It shall be unlawful for any person or

vessel to fish commercially in the marine waters of Rhode Island on an invalid license.

H. New licenses shall be available for issuance upon application beginning January 1, annually.

I. Every license holder shall have their valid license in possession at all times while engaged in the licensed activity and shall present the license for inspection on demand by the Director. Every vessel issued a Multipurpose Vessel License shall have their vessel operator permit issued by the Department and Multipurpose Vessel License on board the vessel at all times while engaged in the licensed activity and shall present the operator permit and license for inspection on demand by the Director.

J. Commercial Landings History: Commercial landings history shall be established based on the commercial fishing records ascribed to the natural person to whom the license is issued.

2.7.3 License Types, Fees, and Applicability

A. Resident licenses:

1. Standard Resident License. Authorizes the commercial harvest of marine fisheries by residents pursuant to the fishery endorsement held.

2. Multipurpose Fishing License: Authorizes the commercial harvest by residents of all marine species, unless otherwise prohibited for harvest.

3. Student Shellfish License: Authorizes the commercial harvest by residents of bay quahaug.

4. Over Sixty-Five (65) Shellfish License: Authorizes the commercial harvest by residents of bay quahaug.

5. Multipurpose Vessel License: Authorizes a resident commercial fishing vessel owner to designate a resident or non-resident operator who is at least eighteen (18) years of age to engage in commercial fishing for all marine species, unless otherwise prohibited for harvest, aboard their owned vessel.

6. Resident Commercial Green Crab License: Authorizes the commercial harvest by residents of green crab. Not eligible if otherwise authorized by another applicable commercial fishing license.

B. Non-resident licenses:

1. Standard Non-Resident License: Authorizes the commercial harvest of marine fisheries by non-residents pursuant to the fishery endorsement held.

C. Fishery Endorsements:

1. Unlimited Finfish: Authorizes the commercial harvest of restricted and non-restricted species of finfish, squid, and marine species other than shellfish and crustacean, unless otherwise prohibited for harvest. Restricted finfish species shall include:

   a. Black sea bass, summer flounder, striped bass, tautog harvested from January 1 through December 31.

   b. Scup harvested from May 1 through September 30.

2. Limited Finfish: Authorizes the commercial harvest of only non-restricted species of finfish, squid, and marine species other than shellfish and crustacean, unless otherwise prohibited for harvest. Non-restricted finfish species shall include all species not identified as restricted species.

3. Unlimited Shellfish: Authorizes the commercial harvest of all species of shellfish by residents unless otherwise prohibited for harvest pursuant to Part 4 of this Subchapter.

4. Limited Shellfish: Authorizes the commercial harvest of all species of shellfish by residents unless otherwise prohibited for harvest pursuant to Part 4 of this Subchapter, excluding bay quahaug, soft-shell clam, and whelk.

5. Unlimited Crustacean: Authorizes the commercial harvest of all species of crustacean unless otherwise prohibited for harvest pursuant to Part 5 of this Subchapter.

6. Limited Crustacean: Authorizes the commercial harvest of all species of crustacean unless otherwise prohibited for harvest pursuant to Part 5 of this Subchapter, excluding lobster.

D. Gear Endorsements:

1. Gill Net: Authorizes the commercial use of a gill net by residents in the marine waters of Rhode Island pursuant to Part 6 of this Subchapter. No person shall set, haul, and/or maintain a commercial gill net in the marine waters of Rhode Island without holding a valid Gill Net Endorsement issued by the Director. An endorsement is not required for commercial gill netting for bait in accordance with Part 6 of this Subchapter.

2. Purse Seine: Authorizes the commercial use of a purse seine pursuant to Part 6 of this Subchapter. No person shall operate a purse seine in the marine waters of Rhode Island without holding a valid Purse Seine Endorsement issued by the Director.

3. Mid Water/Pair Trawl: Authorizes the commercial use of a mid-water/pair trawl these gear types pursuant to Part 6 of this Subchapter. No person shall operate a mid-water/pair trawl in the marine waters of Rhode Island without holding a valid Mid Water/Pair Trawl Endorsement issued by the Director. No issuance until further notice.

E. Other (non-fishery or gear) Endorsements:

1. Paper Catch and Effort Harvester Logbook:

a. Authorizes the license holder to use a paper harvester catch and effort logbook in lieu of electronic reporting to report catch and effort information. No person shall report by a paper harvester catch and effort logbook without holding a valid Paper Catch and Effort Harvester Logbook Endorsement issued by the Director.

b. If declared as the reporting method, the Paper Catch and Effort Harvester logbook endorsement fee must be paid at the time of application.

c. Paper Catch and Effort Harvester logbook submissions will not be accepted by a license holder who does not hold the endorsement.

2. Research Set Aside Endorsement: Authorizes the landing of marine species for sale in Rhode Island in accordance with RSA quota obtained from the National Marine Fisheries Service. Both the endorsement and the permit must be obtained prior to the landing of RSA quota for State quota monitored species in Rhode Island.

F. Annual Fees:

1. Standard License with one (1) limited fishery endorsement

a. Resident: One hundred fifty dollars ($150.00)

b. Non-resident: Three hundred fifty dollars ($350.00)

2. Standard License with two (2) limited fishery endorsements

a. Resident: Two hundred dollars ($200.00)

b. Non-resident: Seven hundred dollars ($700.00)

3. Standard License with three (3) limited fishery endorsements

    a. Resident: Two hundred fifty dollars ($250.00)

    b. Non-resident: One thousand fifty dollars ($1,050.00)

4. Standard License with one (1) unlimited fishery endorsement

    a. Resident: Three hundred dollars ($300.00)

    b. Non-resident: Seven hundred dollars ($700.00)

5. Standard License with one (1) unlimited fishery endorsement and one (1) limited fishery endorsement

    a. Resident: Three hundred fifty dollars ($350.00)

    b. Non-resident: One thousand fifty dollars ($1,050.00)

6. Standard License with two (2) unlimited fishery endorsements

    a. Resident: Three hundred seventy-five dollars ($375.00)

    b. Non-resident: One thousand four hundred dollars ($1,400.00)

7. Standard Resident License with one (1) unlimited fishery endorsement and two (2) limited fishery endorsements

    a. Resident: Four hundred dollars ($400.00)

    b. Non-resident: One thousand four hundred dollars ($1,400.00)

8. Standard Resident License with two (2) unlimited fishery endorsements and one (1) limited fishery endorsements

    a. Resident: Four hundred twenty-five dollars ($425.00)

    b. Non-resident: One thousand seven hundred fifty dollars ($1,750.00)

9. Multipurpose Fishing License: Four hundred fifty dollars ($450.00)

10. Multipurpose Vessel License: One thousand dollars ($1,000.00)

11. Gill Net endorsement: Twenty dollars ($20.00)

12. Purse Seine endorsement: Twenty dollars ($20.00)

13. Mid Water/Pair Trawl endorsement: Twenty dollars ($20.00); No issuance until further notice

14. Paper Catch and Effort Harvester Logbook endorsement: Twenty-five dollars ($25.00)

15. Research Set Aside endorsement: Twenty-five dollars ($25.00)

16. Student Shellfish License: Fifty dollars ($50.00)

17. Over Sixty-Five (65) Shellfish License: There is no fee.

18. Resident Commercial Green Crab License: Ten dollars ($10.00).

19. Grace period late fee: Two hundred dollars ($200.00)

2.7.4 Issuance of Licenses

A. General: Issuance of a Standard Resident or Standard Non-Resident License must include a minimum of one (1) fishery endorsement.

B. License Renewals:

1. General:

a. Persons are eligible to renew their license if they possessed a valid commercial fishing license (including endorsements held) as of the immediately preceding year, provided there is no change in eligibility criteria as described herein.

b. No application for a license renewal will be considered from a person who's had a change in residency status (i.e., change from a Rhode Island resident to non-resident, or from a non-resident to Rhode Island resident).

c. No application for a license renewal will be accepted from a person who is deficient in the submittal of data reports required pursuant to this Part and who has been notified of the deficiency.

d. To renew prior to January 15, accurately completed reporting must be received for the entire year if renewing in January, and up to date in December if renewing in December.

2. Applicants who hold a Standard Resident License with Unlimited Crustacean Endorsement must continue to hold a Lobster Trap Allocation pursuant to Part 5 of this Subchapter to be eligible for renewal of the endorsement.

C. New Licenses:

1. Open Access Licenses:

a. Standard Resident License with Limited Finfish Endorsement: Available to any resident.

b. Standard Resident License with Limited Shellfish Endorsement: Available to any resident.

c. Standard Resident License with Limited Crustacean Endorsement: Available to any resident.

d. Standard Non-Resident License with Limited Finfish Endorsement: Available to non-residents who are at least eighteen (18) years of age at the time of application.

e. Standard Non-Resident License with Limited Crustacean Endorsement: Available to non-residents who are at least eighteen (18) years of age at the time of application.

f. Resident Commercial Green Crab License: Available to any resident.

g. Paper Catch and Effort Harvester Logbook Endorsement: Available to all license holders.

2. Restricted Access Licenses:

a. Multipurpose Fishing License: No new licenses are available for issuance.

b. Standard Resident License with Unlimited Finfish Endorsement: Available to residents pursuant only to the exit:entry ratio of the Unlimited Finfish endorsement.

c. Standard Resident License with Unlimited Shellfish Endorsement:

(1) Available to residents pursuant only to the exit:entry ratio of the Unlimited Shellfish Endorsement.

(2) Available to residents who meets the standard of Actively Fishing and who held a valid Over Sixty-Five (65) Shellfish License as of the immediately preceding year, unless assessed a criminal or administrative penalty in the past two (2) years for a violation of the marine fisheries Regulations.

(3) Available to residents who meets the standard of Actively Fishing and who held a valid Student Shellfish License as of the immediately preceding year, unless assessed a criminal or administrative penalty in the past two (2) years for a violation of the marine fisheries Regulations.

d. Standard Resident License with Unlimited Crustacean Endorsement: No new licenses are available for issuance.

e. Multipurpose Vessel License:

(1) A maximum of fifteen (15) licenses will be available for issuance. If the number of applications exceeds the number of licenses available for issuance, issuance shall be determined by lottery.

(2) Eligibility: The license is only available to resident natural persons who hold a Multipurpose Fishing License:

(AA) Vessels must be commercially declared.

(BB) A copy of the vessel registration must be supplied at the time of application.

(CC) License holders must be a Rhode Island resident for a minimum of the preceding five (5) calendar years.

(DD) The Multipurpose Fishing License must meet the standard of actively fished whereby the license holder must have held the license for a minimum of the immediate two (2) preceding calendar years, and demonstrate by dated transaction records, with fishing activity verified by SAFIS dealer or dockside sales reporting, a minimum of forty (40) legal landings in the preceding two (2) calendar years, pursuant to a valid Rhode Island license.

(EE) Persons who have a vested interest in a business or corporation that owns the commercial fishing vessel must document their vested interest on certificate of authority and disclosure of corporation forms prescribed by the Department. The following restrictions also apply:

(i) The business or corporation must be registered with the State of Rhode Island for the preceding two (2) calendar years and in good standing.

(3) The Multipurpose Fishing License shall be concurrently consigned to the Department upon the issuance of a Multipurpose Vessel License. Consigned shall mean the license is temporarily invalid and held by the Department.

(4) Owners of a vessel who hold a Multipurpose Vessel License are not concurrently eligible for issuance of other commercial fishing licenses issued pursuant to this Part.

(5) Applicants shall agree to install a Division-approved vessel monitoring system (VMS) device on their vessel. The cost of such vessel monitoring device shall be the responsibility of the vessel owner. VMS devices shall be maintained in operational order and be actively engaged at all times when engaged in commercial fishing. Malfunctioning of any device will result in license and/or operator permit suspension until the device is returned to operational order.

(6) Operator permit required. Vessel operator(s) shall be authorized by a separate permit issued by the Director.

(AA) Application for the permit shall be made by the license holder on forms as prescribed by the Director and contain such information as the Department may require. Applications not completed in their entirety shall not be considered. Applications are not subject to an application deadline. Operators must be at least eighteen (18) years of age at the time of application.

(BB) The permit is valid only for the calendar year and vessel to which it is issued.

(CC) The permit must be signed by the party to whom it is issued to be valid.

(DD) The permit is valid only for the signee and may not be transferred to or used by any person to whom the permit is not issued.

(EE) Submission of an application does not constitute a valid permit.

(FF) The fee shall be fifty dollars ($50.00) per operator per application. All fees must have been paid for a permit to be valid.

(GG) Notice of change of address. Whenever the holder of an Operator Permit shall move from the address named in his or her last application, that person shall, within ten (10) days subsequent to moving, notify the Department of his or her former and current address.

(HH) Every permit holder shall have their permit in possession at all times while engaged in the permitted activity and shall present the permit for inspection on demand by the Director.

(7) Issuance of a new Multipurpose Vessel License upon sale of a commercial fishing vessel:

(AA) Eligibility: Upon the sale of vessel issued a Multipurpose Vessel License, residents are eligible to obtain a new Multipurpose Fishing License.

(BB) The Multipurpose Vessel License issued to the vessel being sold must meet the standard of Actively Fishing and the license holder shall surrender their consigned Multipurpose Fishing License and Multipurpose Vessel License to the Department.

(CC) Applications are not subject to an application deadline.

(DD) New license fees shall be applicable at the time of application.

(8) Multipurpose Vessel License catastrophic vessel replacement:

(AA) Eligibility: Upon the catastrophic loss of a vessel issued a Multipurpose Vessel License, residents are eligible to replace their vessel.

(i) Applications and documentation of catastrophic loss to the Department are required. New license application fees shall not apply.

(BB) Multipurpose Vessel License holders will have six (6) months to replace their vessel:

(i) Failure to submit an application to the Department within six (6) months of catastrophic loss will result in the Multipurpose Vessel License becoming invalid and the owner of the vessel will be eligible to have their Multipurpose Fishing License re-issued. The re-issued Multipurpose Fishing License is subject to the annual licensing renewal period.

(9) Term of Multipurpose Vessel License: No Multipurpose Vessel Licenses will be issued after December 31, 2031. During the 2032 license renewal period, any person who was issued a Multipurpose Vessel License must surrender their Multipurpose Vessel License to be re-issued their consigned Multipurpose Fishing License.

f. Standard Non-Resident License with Unlimited Finfish Endorsement: Available to non-residents pursuant only to the exit:entry ratio of the Unlimited Finfish endorsement

g. Standard Non-Resident License with Unlimited Shellfish Endorsement: No new licenses are available for issuance

h. Standard Non-Resident License with Limited Shellfish Endorsement: No new licenses are available for issuance

i. Standard Non-Resident License with Unlimited Crustacean Endorsement: No new licenses are available for issuance

j. Standard Non-Resident License with Limited Crustacean Endorsement: No new licenses are available for issuance

k. Gill Net endorsement: No new gill net endorsements are available for issuance

l. Purse Seine Endorsement and Mid Water/Pair Trawl Endorsement: Available to Multipurpose License holders, and Resident or Non-Resident Standard License with Unlimited or Limited Finfish Endorsement holders; No issuance of Mid Water/Pair Trawl Endorsement until further notice

(1) Endorsement holders must consent to the following:

(AA) Carry an observer on the vessel and/or on any spotter plane used as part of the operation, per the request of DEM.

(BB) Report any/all landings of menhaden on a daily basis to the Division of Marine Fisheries.

(CC) Report beginning, location, and cessation of fishing activities on a daily basis to the Division of Enforcement; and

(DD) Obtain and have on board charts showing the known locations of fixed-gear clusters, as provided by the Division of Marine Fisheries.

(2) 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.

m. Research Set Aside Endorsement: Authorizes the harvest and/or landing of RSA quota in Rhode Island. An RSA endorsement will only be issued upon presentation of an approved and valid Federal Exempted Fishing Permit.

n. In those years where only a limited number of new licenses or endorsements are to be issued, the Department will accept applications until the application deadline, and then issue said licenses or endorsements to eligible applicants by May 15. To ensure fairness in these cases, no new licenses or endorsements will be issued before the application deadline date.

3. Open access licenses for qualified resident applicants:

a. Student Shellfish License:

(1) Available to a resident not older than twenty-three (23) years as of June 30 of the license year.

(2) 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.

(3) Not available to Standard Resident License with Unlimited Shellfish endorsement holders.

b. Over Sixty-Five (65) Shellfish License:

(1) Available to residents who are at least sixty-five (65) years old as of February 28 of the license year.

(2) Not available to Standard Resident License with Unlimited Shellfish endorsement holders.

4. Exit:entry Ratios:

a. Unlimited Finfish Endorsement: For every two (2) Multipurpose Licenses, or Standard Resident License with Unlimited Finfish Endorsements, or Standard Non-Resident License with Unlimited Finfish Endorsements that is not renewed, one (1) new Standard license with Unlimited Finfish Endorsement will be made available for issuance. If the exit:entry ratio yields a number less than a

multiple of three (3) endorsements, the number of endorsements will be rounded up to yield a multiple of three (3) endorsements.

b. Unlimited Shellfish Endorsement: For every three (3) Multipurpose licenses or Standard Resident Licenses with Unlimited Shellfish Endorsement that is not renewed, one (1) new Standard Resident license with Unlimited Shellfish Endorsement will be made available. If the application of the exit:entry ratio yields one (1) or two (2) licenses/endorsements, three (3) licenses/endorsements will be made available.

5. Issuance of a new license upon sale of a license holders vessel and/or gear:

a. Eligibility: Available to residents if the license holder meets the standard of Actively Fishing.

b. Prior to the sale of a license holders vessel and/or gear, the license holder must be in compliance with all applicable reporting requirements.

c. The new license issued may be limited to the fishery sector(s) actively fished by the current license holder to accomplish the purposes of fisheries management plans.

d. Prior to issuance of a new license, the currently held license must be surrendered to the Department.

e. Prior to issuance of a new license, if the applicant currently holds a commercial license, the applicant must be in compliance with all applicable reporting requirements.

f. Applications are not subject to an application deadline.

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

6. Issuance of a new license to resident family members in cases of Incapacity:

a. Eligibility: Available to a resident family member of a license holder who meets the standard of Actively Fishing in cases of incapacity.

b. The new license issued shall be equivalent to the license surrendered.

c. 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.).

d. Prior to issuance of the new license, the currently held license must be surrendered to the Department.

e. 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.

f. Applications are not subject to an application deadline.

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

7. Issuance of a new license to persons returning from active military service when a license expires due to entering active military service: Persons that held a valid license when entering active service are eligible to obtain a new license equivalent to the license held at the time of entering active service, upon presentation of written credible documentation, such as form DD214, demonstrating the continuity of active service since the license had previously been held.

D. Issuance of Temporary Operator Permits to residents in cases of Medical Hardship:

1. Eligibility: Available to residents in cases of Medical Hardship, provided the license holder has been actively engaged in commercial fishing; such resident shall be designated by the current license holder.

2. Demonstration of the Medical Hardship shall be required in the form of a diagnosis and prognosis signed by a medical doctor (M.D. or O.D.).

3. Prior to issuance of the Operator Permit, the currently held license must be surrendered to the Department and will be temporarily suspended. Upon application for the Operator Permit, 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 will be eligible for renewal once, at a cost equivalent to the cost of the license, upon approval by the Director. Upon the return to wellness of the incapacitated license holder and application for reinstatement of the license, the license will be reinstated upon surrendering the Operator Permit.

4. Applications are not subject to an application deadline.

2.7.5 Activity Standards

A. Actively Fishing:

1. General: Refers to eligibility and prioritization criteria for the issuance of certain new licenses and certain marine fisheries programs.

2. To meet the standard of Actively Fishing, the license holder must have held the license for a minimum of the immediate two (2) preceding calendar years, and demonstrate by dated transaction records, with fishing activity verified by SAFIS dealer or dockside sales reporting, a minimum of forty (40) legal Rhode Island landings in the preceding two (2) calendar years, pursuant to a valid Rhode Island license.

    a. In cases where there are less than forty (40) verified Rhode Island landings, and one (1) 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.

    b. In cases where dockside sales reports are being used to meet the standard of Actively Fishing, additional documentation may be required to demonstrate fishing activity, including, but not limited to: receipts pertaining to live 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.

    c. In cases where a person holds both a Landing Permit and a Standard Resident or Non-Resident License concurrently issued by the Department, dated transaction records established in SAFIS which are recorded on a license holder's Landing Permit may be considered for the demonstration or verification of the activity standard.

    d. In cases where a person previously held a Commercial Fishing License (CFL) or Principal Effort License (PEL) that was changed to a Standard Fishing License as of January 1, 2023 due to the commercial fishing license re-structure, documented landings applied to the current Standard Fishing License and former Commercial Fishing License or Principal Effort License shall be used to determine if the standard of Actively Fishing is met.

3 Issuance of a new license to resident family members in cases of Incapacity: To meet the standard of Actively Fishing, landings must have occurred in at least two (2) consecutive calendar years within the last ten (10) years.

4. Issuance of a new license upon sale of a license holders vessel and/or gear: To meet the standard of Actively Fishing, the required forty (40) landings must have occurred in the previous two (2) calendar years, with landings occurring in one (1) or both of those calendar years.

5. Student Shellfish License holders who become ineligible to renew their license due to age after holding the license in the immediately preceding year: To meet the standard of Actively Fishing, the required forty (40) landings may need only occur during the year the license was held.

B. Actively Participating:

1. General: Refers to prioritization criteria for the issuance of new licenses.

2. To meet the standard of Actively Participating, a crew must be able to demonstrate via one (1) or more affidavits that they have worked as a paid crew for one (1) or more captains licensed in the State of Rhode Island on a vessel that was commercially declared during the period of activity, that had a minimum of forty (40) legal Rhode Island landings in the immediately preceding two (2) calendar years. To be considered a paid crew, persons must demonstrate a valid record of being a paid employee of the vessel owner or person licensed to fish commercially, including either a W-2 form, 1099 form, or paycheck stub from a financial institution for the period of time being used to meet the standard of Actively Participating. Affidavits must reflect activity conducted upon a vessel that was commercially declared during the period of activity.

3. A license holder with a Dockside Sales Endorsement who sells lobster and/or crab landings dockside may utilize documentation other than dated transaction records to demonstrate fishing activity. Such documentation shall include properly recorded and submitted Dockside Sales Endorsement logbook, 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.

4. Any application submitted in accordance with this Part 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. Fraudulent 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.

2.7.6 Prioritization in the Issuance of New Licenses

A. In those years when a limited number of new licenses or endorsements are available for issuance, the Department shall establish priority to each applicant as follows:

1. First priority: First (1st) priority shall be established equally as follows:

    a. Holders of a Standard Resident License with a Limited Endorsement who meet the standard of Actively Fishing in the same fishery sector for which the license holder has applied.

    b. Holders of a Standard Resident License with an Unlimited Endorsement who meet the standard of Actively Fishing in a fishery sector different than that for which the license holder has applied.

    c. Resident crew members who meet the standard of Actively Participating in the same fishery sector for which the crew member has applied.

    d. If in any of these three (3) sub-tiers there are fewer eligible applicants than licenses available for issuance, the balance will be evenly distributed to the other sub-tier. 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 tiers, the number of remaining endorsements will be rounded up to provide each remaining tier with the necessary endorsement(s) required to complete the selection process.

2. Second priority: Second (2nd) priority shall be established equally as follows:

    a. Holders of a Standard Resident License with a Limited Fishery Endorsement who meet the standard of Actively Fishing in a fishery sector different than that for which the license holder has applied.

    b. Resident crew members who meet the standard of Actively Participating in a fishery sector different than that for which the crew member has applied.

    c. If in any of these two (2) sub-tiers there are fewer eligible applicants than there are licenses/endorsements available for issuance, then the balance will be distributed to the other tier. 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 tiers, the number of remaining endorsements will be rounded up to provide each remaining tier with the necessary endorsement(s) required to complete the selection process.

3. Third priority: Third (3rd) priority shall be provided to any resident who is:

   a. An active member of the military

   b. A military veteran who has been honorably discharged

   c. A person that holds a valid certificate from an accredited commercial fishing apprenticeship program approved by the Department

4. Fourth priority: Fourth (4th) priority shall be provided to any resident aged eighteen (18) or older.

5. Fifth priority: Fifth (5th) shall be provided to any non-resident aged eighteen (18) or older.

B. 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.

C. Within each priority 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.

D. In cases where an applicant has previously surrendered a license to the Department pursuant to the sale of vessel and/or gear, and the applicant has subsequently acquired a new license, the applicant must have held the current license for a minimum of seven (7) years before being eligible to use the activity standard as a criteria for prioritization.

E. Active military and veterans who have been honorably discharged from active military duty may use the immediately preceding two (2) calendar years prior to conscription into the military to meet the activity standard.

F. 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.

2.7.7 Application for License

A. Contents of application: Applications for a commercial fishing license shall be completed on forms as prescribed by the Director. Applications not completed in their entirety shall not be considered. Applications shall contain 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.

B. Application Deadlines:

1. Standard Resident, Standard Non-Resident, Over Sixty-Five (65) Shellfish, Multipurpose Fishing License, Multipurpose Vessel License, and Resident Commercial Green Crab License: Applications must be received or postmarked by 4:00 p.m. on February 28, or by 4:00 p.m. on the first (1st) business day following February 28 if that day falls on a Saturday, Sunday or holiday.

2. Student Shellfish license: Applications must be received or postmarked by 4:00 p.m. on June 30, or by 4:00 p.m. on the first (1st) business day following June 30 if that day falls on a Saturday, Sunday, or holiday.

3. All license applications shall be made at, or addressed to, the Department of Environmental Management, Office of Boat Registration and Licensing, 235 Promenade Street, Providence, 02908.

4. Grace Period:

a. Standard Resident, Standard Non-Resident, Over Sixty-Five (65) Shellfish, Multipurpose Fishing License, Multipurpose Vessel License, and Resident Commercial Green Crab License: License

applications not received by the application deadline will be accepted during a sixty (60) day grace period commencing on the day immediately following the application deadline upon payment of a late fee in the amount of two hundred dollars ($200.00).

b. Student Shellfish License: There is no grace period for a Student Shellfish License application.

2.7.8 Reporting

A. The holder of any type of commercial fishing license shall be deemed to have consented to provide such fishery-related information as the Director may require.

B. Reporting shall be required on forms or in a format as prescribed by the Director. Only one (1) reporting method may be utilized. Reporting formats include Paper Catch and Effort Harvester Logbook, Federal Vessel Trip Report (VTR), or e-TRIPS. The Department will provide applicants with applicable reporting methods at the time of license issuance or renewal.

C. The Paper Catch and Effort Harvester Logbook and e-TRIPS reporting methods cannot be declared together.

D. Contents of reports: Commercial trips shall be accurately logged in the Paper Catch and Effort Harvester Logbook or entered in an approved electronic device or application, 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

E. Due dates for the submittal of reports:

1. Paper Catch and Effort Harvester logbook:

a. For fishing activity occurring in the months of January, February, and March: April 15

b. For fishing activity occurring in the months of April, May, and June: July 15

c. For fishing activity occurring in the months of July, August, and September: October 15

d. For fishing activity occurring in the months of October, November, and December: January 15

2. Electronic reports: Captains enrolled in an electronic logbook program shall submit trip reports no later than forty-eight (48) hours after the end of the trip.

a. Negative Reports:

(1) The holder of a commercial fishing license with a reporting requirement shall submit an electronic negative report for each month during which no commercial seafood product was harvested.

(2) Due dates for the submittal of monthly negative reports:

i For no fishing activity during the months of January, February, and/or March: April 15

ii For no fishing activity during the months of April, May, and/or June: July 15

iii For no fishing activity during the months of July, August, and/or September: October 15

iv. For no fishing activity during the months of October, November, and/or December: January 15

(3) Negative reports may be submitted for a maximum of three (3) months in advance.

F. Accurately completed copies of the Federal Vessel Trip Reports or State reporting forms shall be kept in numerical order onboard 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.

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.

2.7.9 Vessel Declaration

A. Applicability: 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.

B. Each such vessel must be individually and separately declared, on an annual basis, and the required fee paid.

C. Vessel declarations shall be issued as a resident or non-resident.

D. 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 the number of crew.

E. 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.

F. 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.

G. Temporary transfers of non-resident vessel declarations between vessels less than twenty-five feet (25') in length via vessel declaration plates are not permitted.

H. Annual Fee:

1. Resident: 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')

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

2.8 Landing Permits

A. Applicability:

1. Authorizes off-loading of seafood products legally harvested outside of Rhode Island waters for sale or intended sale in Rhode Island

2. Authorizes the permit holder to secure a vessel with the seafood products onboard to a shoreside facility where the products may be offloaded for sale or intended sale.

3. If the operator of a vessel carrying seafood products notifies the Department's Division of Law Enforcement at least four (4) hours before entering Rhode Island waters that he or 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.

B. General eligibility: A Landing Permit will only be issued 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. The Landing Permit issued will authorize the landing of those species authorized by said Federal or State permit.

C. General Provisions:

1. Application required: Application for a Landing Permit shall be completed on forms as prescribed by the Director and contain such information as the Department may require. Applications not completed in their entirety shall not be considered. Applicants must include proof of their valid Federal or State license as part of the permit application.

2. A Landing Permit is issued to a person 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.

3. The person in charge of a vessel must be in possession of a Landing Permit issued to that individual in order for that vessel to legally enter Rhode Island waters.

4. A Landing Permit is valid only for the calendar year in which it is issued.

5. The permit must be signed by the party to whom it is issued in order to be valid.

6. The permit is valid only for the signed holder and may not be transferred to or used by any person to whom the license is not issued.

7. Submission of an application does not constitute a valid permit.

8. All fees must have been paid for a permit to be valid.

9. A lost or accidentally destroyed Landing Permit 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.

10. Notice of change of address. Whenever the holder of a Landing Permit 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.

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

D. Resident Landing Permit:

1. Applicability: Authorizes the permit holder to land, sell, or offer for sale any marine fishery species or product, in accordance with all applicable Rules and Regulations governing those species.

2. Eligibility: Available to residents who hold a valid State and/or Federal commercial fishing license.

3. Annual fee: Three hundred dollars ($300.00)

E. Non-Resident Exempted Landing Permit:

1. Applicability: Authorizes the permit holder to 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. Eligibility:

a. Available to non-residents only 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 fisheries management plan determines there to be excess harvesting capacity in the Rhode Island commercial quota for that species.

b. Renewal is considered to be a new permit unless the applicant can show evidence of Rhode Island landings of more than one thousand (1,000) pounds of that species per year in four (4) of the five (5) years preceding the application. Having made that demonstration, the permit holder who held that permit as of the immediately preceding year may renew it for the immediately following year.

c. Application for a new permit is required in instances when a non-resident vessel is upgraded by twenty percent (20%) or more in length, displacement, or horsepower.

3. Annual fee: Six hundred dollars ($600.00).

F. Non-Resident Landing Permit:

1. Applicability: Authorizes the permit holder to 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. Eligibility: Available to non-residents who hold a valid State and/or Federal commercial fishing license.

3. Annual fee: Six hundred dollars ($600.00)

2.9 Party and Charter Licenses

A. Applicability: 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.

B. Eligibility: To obtain a license, the owner of a qualified vessel must apply to DEM on forms as prescribed by the Director. The following information must be submitted with a completed application form:

1. A current copy of the operator's United States Coast Guard 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 46 C.F.R. § 16.101 *et seq.* "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.

C. Annual Fee:

1. Resident: One hundred dollars ($100.00)

2. Non-resident: Three hundred dollars ($300.00)

D. Expiration: December 31 annually

E. 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.

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TITLE 250 - DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 90 - MARINE FISHERIES

SUBCHAPTER 00 - N/A

PART 2 - COMMERCIAL MARINE FISHING LICENSES, LANDING PERMITS, AND PARTY AND CHARTER LICENSES

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