

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Division of Fish and Wildlife

-DRAFT #4--

(~~August~~October 4-29, 2002 Public Comment Document~~Mark Up~~)

**Rules and Regulations
Governing the Management of
Marine Fisheries**



~~August~~October 2002

Marine Fisheries Management

AUTHORITY: These regulations are adopted pursuant to Chapter 42-17.1, Section 20-1-4, and Public Laws Chapter 02- 047, in accordance with Chapter 42-35 of the Rhode Island General Laws of 1956, as amended.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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RULES AND REGULATIONS GOVERNING THE MANAGEMENT OF MARINE FISHERIES

RULE 1. PURPOSE

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.

RULE 2. AUTHORITY

These Rules and Regulations are promulgated pursuant to Chapter 42-17.1, Department of Environmental Management, and Section 20-1-4, and Public Laws Chapter 02-047, "An Act Relating to Fish and Wildlife," in accordance with Chapter 42-35, Administrative Procedures, of the Rhode Island General Laws of 1956, as amended.

RULE 3. APPLICATION

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

RULE 4. SUPERCEDED RULES AND REGULATIONS

On the effective date of these Rules and Regulations, all previous Rules and Regulations, and any policies regarding the administration and enforcement of the General Laws in Chapter 20-2, entitled "Licensing," and Chapter 20-3.1, entitled "Marine Fisheries Management Modernization," ~~and Chapter 20-6 entitled "Shellfish,"~~ shall be superseded, provided that regulations promulgated by the Director or the R.I. Marine Fisheries Council pursuant to Chapter 20-3, entitled "Marine Fisheries Council" will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 Rules and Regulations shall be governed by the Rules and Regulations in effect at the time the enforcement action was taken or application was filed.

RULE 5. DEFINITIONS

- (5.1) "Agent." - A representative of a licensed dealer with a place of business in the State of Rhode Island wherein transaction records of said dealer are maintained and available for inspection during normal business hours.
- (5.2) "Area Closure or Restriction." - A geographic area capable of being described by coordinates or landmarks wherein fishing for identified species of fish, shellfish or crustaceans is prohibited or restricted more stringently than is the case for the state's waters generally.
- (5.3) "Authorized Individual." - An Environmental Police Officer or any other representative of the Director authorized to administer or enforce these regulations.
- (5.4) "Bill of Lading." - An invoice which identifies a shipment of fish, shellfish or crustaceans as to seller, buyer, source, type, quantity and sale price.
- (5.5) "By catch." - Fish which have been harvested, but which are not sold or kept for personal use. It includes fish which are discarded for either economic or regulatory reasons.
- (5.6) "Catch Landings Limit." - Any duly adopted restriction on the amount of fish, shellfish or crustaceans that may legally be held at any one point in time or which can be legally landed during a given period of time, usually a calendar day.
- (5.7) "Catch or Landings Report." - A report of required information on a given quantity of fish, shellfish or crustaceans required to be forwarded to the Department at the point in time when said fish, shellfish or crustaceans are sold by a licensed fisher to a licensed dealer. "Catch report" is the report filed by the fisher. "Landings report" is the report filed by the dealer.
- (5.8) "Commercial Fishing License Review Board." - The five-member board, established within the Department and appointed by the Governor with the advise and consent of the Senate, in accordance with R.I.G.L. §20-2.1-12.
- ~~(5.8)~~(5.9) "Control Date." - A cut off date for establishing eligibility criteria for future access to a fishery.:-
- ~~(5.9)~~(5.10) "Crew." - An individual employed for purposes of assisting in the operation of a commercial fishing vessel and its gear by another person licensed to fish commercially pursuant to these regulations.
- ~~(5.10)~~(5.11) "Dealer." - A person, partnership, firm, association, or corporation licensed to barter or trade in any marine species.
- ~~(5.11)~~(5.12) "Department." - The Rhode Island Department of Environmental Management.
- ~~(5.12)~~(5.13) "Director." - The Director of the Rhode Island Department of Environmental Management.
- ~~(5.13)~~(5.14) "Discards." - Fish, shellfish or crustaceans that are discarded overboard by fishers because their possession is prohibited by regulations or for economic reasons.

- ~~(5.14)~~(5.15) "Entrance/Exit Ratio." - A formula established by regulation for a fishery or fisheries which identifies the number of new fishing licenses in each category that will be issued for each one that is retired and surrendered to the Department.
- ~~(5.15)~~(5.16) "Family Member." - The spouse, mother, father, brother, sister, child or grandchild of a licensed fisher.
- ~~(5.16)~~(5.17) "Fish Trap." Floating traps, weirs, pounds, nets, or any equivalent contrivance set on, in or anchored to the bottom or shore, used for the purpose of catching fish.
- ~~(5.17)~~(5.18) "Fishery" - One or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographic, scientific, technical, recreational, and economic characteristics; and any fishing for such stock
- ~~(5.18)~~(5.19) "Fishing Community" - A community which is substantially dependent on or substantially engaged in the harvest or processing of fishery resources to meet social and economic needs and includes fishing vessel owners, operators, and crew, and fish processors that are based in such communities.
- ~~(5.19)~~(5.20) "Gear." - Any device or mechanism other than a vessel employed to catch fish, shellfish or crustaceans.
- ~~(5.20)~~(5.21) "Gear Level." - As set by regulation, the amount, type capacity and design of gear that may legally be employed in a given fishery.
- ~~(5.21)~~(5.22) "Gill Net." - A net designed to catch fish by means of meshing or entanglement.
- ~~(5.22)~~(5.23) "Harvest Level." - As set by regulation, the amount of fish, shellfish or crustaceans that may be legally harvested, possessed, and/or sold by a licensed fisher during a given period of time, usually a calendar day. That amount may vary according to the type of license held and/or the species involved.
- ~~(5.23)~~(5.24) "Harvesting Capacity." - the ability of a fish stock or fishery to support additional fishing pressure while remaining at sustainable levels, defined as Maximum Sustainable Yield (MSY).
- ~~(5.24)~~(5.25) "Incapacity." - Death of, or injury that renders an active licensed fisher unable to fish for a period in excess of seven (7) days either as a result of the physical loss of function or impairment of a body part or parts, or debilitating pain.
- ~~(5.25)~~(5.26) "License Year." - 12:00AM, January 1 of any given year through midnight, December 31 of the same year.
- ~~(5.26)~~(5.27) "Lottery." - Any of a variety of techniques to distribute licenses or permits when the demand for such licenses or permits exceeds the supply, such techniques having the common characteristics of being verifiably blind, random, fair and equitable.
- ~~(5.27)~~(5.28) "Non-Resident." Anybody who does not present proof of Rhode Island residency..
- ~~(5.28)~~(5.29) "Optimum Yield." - The amount of fish which will create the greatest overall benefit to the state, particularly with respect to food production, and taking into account the protection of marine ecosystems. "Optimum Yield" is prescribed as such on the basis of the maximum sustainable yield from the

fishery as reduced by any relevant economic, social or ecological factors, and in the case of an overfished fishery, provides for rebuilding to a level consistency with producing the maximum sustainable yield from such fishery.

~~(5.29)~~(5.30) "Overfishing/Overfished." - A rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis.

~~(5.30)~~(5.31) "Place of Business." - A building or office located in the State of Rhode Island where a licensed fish dealer maintains records of sales and purchases which are available for inspection by the Department during normal business hours.

~~(5.31)~~(5.32) "Point of Sale." - The point in time and place where ownership of a given quantity of fish, shellfish, and/or crustaceans is transferred from a licensed fisher to a licensed dealer.

~~(5.32)~~(5.33) "Processed Products or Seafood Products." - Any fish, shellfish or crustacean which has been processed on board a fishing vessel prior to sale to a licensed dealer.

~~(5.33)~~(5.34) "Quota." - An allocation of an amount of a specific species of fish, shellfish or crustaceans available to be harvested by Rhode Island fishers. This allocation is made by regional management councils and may be further allocated by the Department by season or among different types of fishers.

~~(5.34)~~(5.35) "Rhode Island Resident" - An individual who has had his or her principal place of residence in Rhode Island and has lived in that residence for a continuous period of not less than six (6) months. Proof of residence may include a Rhode Island driver's license, automobile registration, voter registration card or a notarized statement from a City or Town Clerk.

~~(5.35)~~(5.36) "RIMFC." The Rhode Island Marine Fisheries Council.

~~(5.36)~~(5.37) "Sea Sampler/Observer." - A representative of the Director or the National Marine Fisheries Service authorized to accompany fishers during the act of fishing to conduct research and/or to monitor and confirm catches.

~~(5.37)~~(5.38) "Season." - A period of time established by regulation during which management rules specific to that period are in effect.

~~(5.38)~~(5.39) "Self-Sustaining Stock, Sustainability." - A population of a given species of fish, shellfish or crustaceans which has sufficient recruitment of new animals and survival rates for mature animals as to maintain a stable biomass over time.

~~(5.39)~~(5.40) "Shellfish Dredge." - A mechanical device which is towed behind a fishing vessel and whose purpose is to collect shellfish from the sea floor.

~~(5.40)~~(5.41) "Shellfish Seeding." - The introduction of shellfish spat or sub-legal juvenile animals into an area for purposes of increasing the population of shellfish in that area.

~~(5.41)~~(5.42) "Shellfish Transplant." - The removal of shellfish from polluted waters or bottom areas proposed to be dredged and the transport of those animals to a Management Area for harvest at a later date.

~~(5.42)~~(5.43) "Transaction Records." - Invoices or similar records of the purchase of fish, shellfish, crustaceans or other seafood products by a licensed dealer, which identify the boat and license holder from which the purchase was made.

~~(5.43)~~(5.44) "Unreasonable Hardship." - Severe economic loss resulting from the denial of a license which is unique to an individual and which has not been caused or exacerbated by prior actions of or inaction on the part of that individual.

~~(5.44)~~(5.45) "Vessel Declaration." - Registration of a vessel as a commercial fishing vessel with the Department as required herein.

~~(5.45)~~(5.46) "Vessel Upgrade." - The acquisition by a licensed fisher of a vessel that is longer, of greater displacement, or increased horsepower relative to the vessel it is replacing.

RULE 6. REGULATIONS

(6.1). Management Controls

(6.1-1) ~~Species Fishery~~ Endorsements

~~(a) The Department will create, and may from time to time add, eliminate or modify, license endorsements that upon issuance allow the taking and sale of specific marine fish species or groups of species, and may as needed add to or delete from those endorsement categories.~~

~~(b)~~(a) Species Fishery endorsement categories shall include ~~at a minimum~~ Non-Lobster Crustacean, Lobster, Non-Quahaug Shellfish, Quahaug, Non-Restricted Finfish, and Restricted Finfish.

~~(c)~~(b) In establishing species endorsement categories, and allowing fishing of them, By rule, the Department may add, eliminate, or modify fishery endorsement categories; in doing so, the Department will consider the status of each fishery, levels of participation by existing license holders, and the provisions of applicable fisheries management plans and programs.

(6.1-2) Harvest and Gear Levels

(a) By rule, ~~t~~The Department shall set, and may periodically adjust, Basic and Full Hharvest levels and Ggear Llevels or restrictions on a fishery_ or endorsement_-specific basis, ~~and~~ consistent with state and/or federally sanctioned fisheries management plans or programs.

(b) ~~A Basic Harvest and Gear Level will be set and may be adjusted periodically.~~ The Basic Harvest and Gear Level will apply to holders of Commercial Fishing Licenses.

(c) ~~Full Harvest and Gear Level will likewise be set and may be adjusted periodically.~~ The Full Harvest and Gear Level will apply to holders of Principal Effort Licenses for the fisheries for which they hold endorsements; and to holders of Multi-Purpose Licenses for all species.

~~(d) Full Harvest and Gear Levels will allow for greater levels of participation than will Basic Harvest and Gear Levels; provided that~~

~~both will allow the maximum level of effort possible consistent with state and/or federally sanctioned management plans or programs.~~

(6.1-3) Regulation of Gear

~~(a) The Department may regulate the use and design of gear, the identification of gear, and/or the amount of the same or similar types of gear that may be deployed by season, geographic area, and/or type of license or endorsement.~~

~~(b) The Department may regulate the transfer of gear, but only as regards to the amount of gear that may subsequently be deployed by the party to which it has been transferred.~~

(6.1-4) Times and Seasons

~~The Department may set times and seasons for harvesting each fish species or endorsement category.~~

(6.1-5) Area Closures and Restrictions

~~The Department may restrict where fishing can take place, and where it is prohibited or otherwise restricted, either by species or endorsement category.~~

(6.1-6) Quotas, Catch and Landings Limits

~~The Department may set and/or modify quotas and other restrictions on catch and landings and may do so by license type or endorsement category.~~

(6.1-7) Limits On Entry

(a) By rule, ~~t~~The Department may limit entry into a fishery by license type or endorsement category, ~~species or endorsement~~ where a state and/or federally sanctioned fisheries management plan ~~or program~~ finds that fishing effort is at or exceeds sustainable levels.

(b) By rule, ~~t~~The Department may ~~regulate the total number of licenses in a fishery or endorsement category, or otherwise implement the requirements of subsection 6.1-7(a) above,~~ by establishing entrance/exit ratios, lotteries, waiting lists, or other allocation measures: as a means for limiting entry pursuant to subsection 6.1-7(a).

(6.1-8) Control Dates

- (a) By rule, ~~t~~The Department may establish control dates, which shall serve as ~~a~~-cut off dates for establishing potential eligibility criteria for future access to a fishery.
- (b) Eligibility criteria may include, but are not limited to, historic participation and/or gear levels as documented by landings and sales.
- (c) The establishment of a control date is intended to promote awareness of potential eligibility criteria for future access to a fishery and to discourage speculative shifting of effort into that fishery. To this end, the Department may give various weighted considerations to those active in the fishery before and after the control date.
- (d) Establishing a control date does not commit the Department to any particular management regime or criteria for limiting future access to a fishery; however, once enacted, control dates may only be used to limit future access to a fishery in accordance with a state fisheries management plan.~~expansion of effort in, or transfer of effort into, a fishery.~~
- (e) Fishers are not guaranteed future participation in any fishery, regardless of their entry date or intensity of participation before or after a control date established pursuant to this ~~sub~~section.
- ~~(f)The Department may change a control date or may choose a management strategy which does not employ a control date.~~
- ~~(g)~~(f) Control dates may only be established prospectively.

(6.1-9) Annual Promulgation of Rules

Endorsement categories, harvest and gear levels, regulations affecting gear, times and seasons, area closures and restrictions, quotas and catch or landings limits, limits on entry-, control dates and data reporting shall be established by rule as hereinafter described on an annual basis, no later than November 1 for the following year, provided that said regulations may run for longer periods where management conditions permit, or may be adjusted more frequently where such conditions require.

(6.2) Management Plans

(6.2-1) Required

The management controls set forth in subsection 6.1 must be based on fishery management plans that have been adopted by the Department or by a federal agency or regional body of competent jurisdiction. Such plans may be species- or fisheries-specific or apply to whole endorsement categories.

(6.2-2) Purpose and Content

- (a) The central objective of all fishery management plans shall be to achieve the optimum yield from each fishery on a continuing basis while maintaining self-sustaining stocks of all marine species, and to restore overfished stocks to sustainable levels.
- (b) Plans shall, ~~however,~~ consider, and to the extent possible, consistent with subsection 6.2-2(a), minimize adverse impacts on access to the fishery, the economic well-being of fishers and fishing-dependent communities, traditional practices, owner operation of fishing vessels, and safety of human life at sea.
- (c) Plans shall consider the effectiveness of proposed management measures in reducing by-catch, by-catch mortality, and discards.
- (d) Plans may not allocate access to fishery resources among participants solely on the basis of economic considerations.
- (e) Plans may consider other relevant factors as determined by the Director.
- (f) Plans shall be based on the best scientific information available.

(6.2-3) Procedure for Adopting Management Plans ~~and Programs~~

- (a) Management plans ~~and programs~~ shall be adopted by rule consistent with the requirements of the Administrative Procedures Act and as herein described on an annual basis no later than November 1 for the following year, provided that said plans may continue in effect for longer periods if it is determined that management conditions permit or may be adjusted more frequently if it is determined that management conditions require.
- (b) Plans ~~and programs~~ shall be submitted to the Rhode Island Marine Fisheries Council [RIMFC] for review and advice at least sixty (60) days prior to ~~the scheduling of~~ any Department hearing on said plans.
- (c) RIMFC may recommend to the Director that a proposed plan ~~or program~~ be adopted, modified or withdrawn, and the Director may proceed to hearing on the plan ~~or program~~ as originally proposed or as revised by RIMFC, or both, provided that in all instances both the plan as originally proposed and as recommended by RIMFC shall be entered into the hearing record.
- (d) In adopting a proposed plan ~~or program~~, the Director shall include a concise explanation of the principal reasons cited for and against its adoption and his or her response to positions entered into the hearing record.

(6.3) Emergencies

The Director may promulgate marine fisheries management rules with less than sixty (60) days notice to RIMFC if and to the extent necessary to comply with federal or regional ~~council or commission~~ requirements or to respond to sudden and/or imminent peril or unanticipated developments where delay would likely cause immediate harm to fishery resources or fishers pursuant to R.I.G.L. §42-35-3.

(6.4) Annual Report

(6.4-1) The Director shall prepare an annual report on the conservation and management of marine fisheries resources for the General Assembly and the citizens of the State. Said report will address particularly the status of fish stocks that are considered to be overfished or were so in the preceding year, the status of fisheries management plans ~~or~~ and programs, levels of participation by existing license holders, and the availability of new licenses and endorsements.

(6.4-2) The annual report on marine fisheries resources ~~shall~~ will be ~~issued~~ released no later than March 31 for the calendar year preceding.

(6.5) ~~Annual Spending Plan~~ Use of License and Vessel Declaration Fees

(6.5-1) ~~Annual Spending Plan~~ Required

- (a) License and vessel declaration fees must be ~~allocated~~ used by the Department ~~according to~~ in accordance with an annual spending plan adopted with the advice of RIMFC.
- (b) The Department will submit its annual spending plan to RIMFC no later than September 1 for the following fiscal year.

(6.5-2) Activities Eligible For Funding

License and vessel declaration fees are to be used by the Department for the following specific purposes:

- (a) Protection and propagation of fisheries resources;
- (b) Enforcement of fisheries management regulations;
- (c) Shellfish transplants;
- (d) Enhancement of shellfish resources through other technologies including seeding;
- (e) Fishing port development and construction;
- (f) Staff support to and expenses incurred by RIMFC;
- (g) Lease or purchase of land or conservation easements;
- (h) Technical support to and expenses incurred by the Department for purposes of managing fisheries resources generally and for the

collection, processing, analysis and maintenance of data employed in support of such management.

(6.5-3) Special Projects

Beginning on July 1, 2003, a minimum of two hundred thousand dollars (\$200,000) of license and vessel declaration fees ~~generated pursuant to subsection 6.5-1(a)~~ shall be targeted set aside annually to fund fishery conservation and restoration projects and/or fishery resource enhancement activities.

(6.6) Data Reporting

(6.6-1) Required

- (a) The holder of any type of commercial fishing, ~~license, or~~ dealer license, or landing permit ~~of any sort~~ shall be deemed to have consented to providing such information as the Department may require, including but not limited to, catch, effort, and areas fished.
- (b) Applicants for commercial fishing or dealer licenses or landing permits will be provided a list of applicable reporting requirements at the time of license issuance or renewal.
- (c) The Department may, pursuant to subsection 6.6-2(b), amend reporting requirements ~~annually~~, no later than November 1 for the following calendar year.
- (d) The holder of a commercial fishing license or landing permit ~~of any sort~~ shall be deemed to have consented to allowing Department sea samplers or observers on their vessel while fishing in order to obtain catch and effort data or conduct related research.
- (e) The license or permit of any individual who fails to report required information in a timely fashion or who files a false report shall be subject to suspension or revocation. No application for a license renewal will be accepted from a person who has failed to submit reports in a timely fashion and who has been previously notified, via certified mail, regarding the deficiency and the inability to renew if the required reports are not filed by the license application deadline. new license will be issued to an individual until such time as the required reports are filed and the suspension or revocation is lifted.

(6.6-2) Manner of Reporting

- (a) Fishers and dealers will be required to file ~~catch and efforts~~data reports at the point of sale and fishers may also be required to maintain ~~catch~~ logs while fishing.
- (b) License holders will be informed in writing as to the form of such reports, their content, and the manner in which and frequency with

which they are required to be transmitted by November 1 for the following year.

- (c) Data will be collected, managed and disseminated according to the coastwide minimum protocols of the Atlantic Coastal Cooperative Statistics Program (ACCSP).
- (d) Reported data may be used for management and enforcement purposes by any properly designated State or federal agency.
- (e) Any data which is released or reported to the public shall be aggregated so as to not identify individual fishers, vessels or dealers.

(6.7) Licensing

(6.7-1) Information Required

Applicants for any license or permit issued under these regulations shall provide a notarized statement containing the following information:

- (a) Full name
- (b) Age
- (c) Occupation
- (d) Residence address
- (e) Mailing address
- (f) Weight
- (g) Height
- (h) Hair color
- (i) Eye color
- (j) The name of any state or jurisdiction in which the applicant's commercial fishing license and/or permit is currently revoked or suspended.
- (k) Driver's License number and state of issuance.

(6.7-2) Other Requirements

- (a) A license or permit must be signed and sworn to by the party to whom it is issued in order to be valid.
- (b) Licenses and permits are valid only for the signed holder and may not be transferred.
- (c) All fees must have been paid for a license or permit to be valid.
- (d) A lost or accidentally destroyed license or permit will 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.
- (e) No application for a license renewal shall be accepted from a person whose data reports, per section 6.6, have not been submitted.

(6.7-3) Application Deadlines

- (a) The Department will notify all license and ~~or~~ permit holders in writing by November 1 ~~of any year~~ that said license or permit, as well as all vessel declarations, expires on December 31 of that year.
- ~~(b)~~ The Department will also notify all holders of Commercial Fishing, Principal Effort, and Multipurpose Licenses in writing by November 1 that said licenses, along with any and all applicable endorsements, must be renewed by February 28 of the following year in order to remain valid.
- ~~(c)~~ For Commercial Fishing, Principal Effort or Multi-Purpose Licenses and for Vessel Declarations, by February 28 of the following year; and for all other permits or licenses by December 31 of the current year. This All notices will be sent by regular mail to the mailing address given on the license or permit holder's last license application.
- ~~(b)~~(d) All applications for Commercial Fishing, Principal Effort, and Multipurpose Licenses, along with any and all applicable endorsements, whether renewals or new issues, must be made in person by 3:00 PM on February 28, or on the Monday following February 28 if that day falls on a Saturday or Sunday, of the deadline date at the Department of Environmental Management, Office of Licensing and Registration, 235 Promenade Street, Providence, 02908, ~~or~~ Alternatively, applications must be posted to the same address with a postmark no later than the above-referenced deadline date. Alternatively, rRenewals must only may be made electronically by midnight3:00 PM on the above-referenced deadline dateFebruary 28.
- ~~(e)~~(e) No Commercial Fishing, Principal Effort or Multi-purpose License or applicable endorsement will be issued or renewed after the close of business on February 28, or on the Monday following February 28 if that day falls on a Saturday or Sunday, unless said license or endorsement was applied for consistent with the requirement of subsection 6.7-3(~~bd~~), ~~above.~~; or unless said license or endorsement is applied for consistent with the provisions of section 6.7-6 or 6.7-7.
- ~~(d)~~(f) No license or permit will be renewed unless ~~and until~~ the data reporting requirements of Section 6.6 have been met.

(6.7-4) License Renewals; Grandfather Rights

- (a) Applicants who possessed a valid commercial fishing license as of December 31, 2002 may obtain a Principal Effort License, but only for the fishery endorsement categories for which they were licensed as of that date; provided, however, that non-residents must also meet the reciprocity requirements set forth under section 6.11-3.-

(b) Applicants who possessed a valid ~~m~~Multi-purpose ~~S~~Species ~~L~~License as of December 31, 2002 may obtain a Multi-Purpose License.

(c) Applicants who possessed a valid landing permit as of December 31, 2002 may obtain a Landing Permit, but only for the fishery or fisheries for which they were permitted as of that date.

~~(e)~~(d) The provisions of this ~~sub~~section apply only to the license year beginning on January 1, 2003, and the issuance of licenses pursuant to this ~~sub~~section is subject to the license application deadlines and other requirements set forth under ~~sub~~sections 6.7-1, 6.7-2, and 6.7-3.

(6.7-5) Issuance of New Licenses and Endorsements, Generally

(a) The Department shall issue new licenses and endorsements in accordance with the provisions of management plans, duly adopted under the provisions of section 6.2. Said plans shall be reviewed and, if necessary, updated annually to reflect changes in (i) regional or federal management plans or programs, (ii) fish stocks and fisheries, and (iii) levels of participation by existing license holders. Said plans may or may not provide for the issuance of certain new licenses or endorsements in any given year, depending on the status and economic condition of each fishery. ~~may as appropriate issue new Commercial Fishing, Principal Effort and/or Multi-Purpose Licenses with endorsements for any fishery sector in which excess harvesting capacity is determined to exist pursuant to a fisheries management plan adopted under the provisions of section 6.2.~~

(b) New licenses and endorsements shall be made available on January 1 for that year pursuant to management plans and associated rules adopted no later than November 1 of the preceding year, subject to the provisions set forth herein.

~~(b)~~(c) ~~In issuing new Commercial Fishing, Principal Effort or Multipurpose Licenses, and applicable endorsements~~ the Department shall give priority to applicants in the order prescribed by law. 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. 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.

(d) In cases where allocation measures need to be employed to issue a limited number of new licenses or endorsements, the Department will accept applications until the application deadline set forth under 6.7-3(d), and then issue said licenses or endorsements to eligible applicants within five (5) business days following the deadline date.

To ensure fairness, in these cases, no new licenses will be issued before the application deadline date.

- ~~(e)~~(e) First Priority in the issuance of new Principal Effort or Multi-Purpose Licenses and applicable endorsements shall be given to the a licensed family member, and second priority to the crew, of the holder of such a license/endorsement who is actively fishing that license/endorsement and who has first surrendered it the license to the Department. A license holder will be considered to have been actively fishing that license if he or she demonstrates by dated landings slips that they have fished at least fifty (50) days in the year preceding the date that they surrender their license. Only one new license will be issued for each one surrendered, and if more than one family member has applied to obtain that license, it will be issued to such a family member by lottery. Similarly, if no family member has applied and more than one crewmember has done so, the license will be issued to such a crew member by lottery. Family members or crew who apply eligible to obtain a license/endorsement pursuant to this subsection must have held a lower level commercial license with a lower harvest and gear level for two years or more.
- ~~(f)~~ Second priority in the issuance of new Principal Effort or Multi-Purpose Licenses and applicable endorsements shall be given to a licensed crew member of the holder of a license/endorsement who is actively fishing that license/endorsement per subsection (e) above, and who has first surrendered the license to the Department. Only one new license will be issued for each one surrendered. Crew members eligible to obtain a license/endorsement pursuant to this subsection must have held a lower level commercial license for two years or more. Crew members eligible to obtain a license/endorsement under this subsection must submit one or more affidavits to the Department, verifying their status as crew members.
- ~~(g)~~ Third priority in the issuance of new Principal Effort and Multi-Purpose Licenses and applicable endorsements shall be given to licensed fishers who have held a lower level commercial license in the same fishery for which a new license is being sought. Fishers eligible to obtain a license/endorsement under this subsection must have held a lower level commercial license for two years or more.
- ~~(h)~~ Fourth priority in the issuance of new Principal Effort and Mutli-purpose Licenses and applicable endorsements. Principal Effort or Multi-purpose L shall be given to any licensed Rhode Island resident who has held a lower level commercial fishing license, regardless of the type of license held, for two years or more with a lower harvest and gear level. Fishers eligible to obtain a license under this subsection shall be prioritized based on the length of time they have held a license.
- ~~(e)~~(i) FourthFifth priority in the issuance of new Principal Effort or Multi-purpose Licenses and applicable endorsements shall be given

to any other Rhode Island resident regardless of their prior licensing status or participation in commercial fishing.

- ~~(f)~~(j) ~~Fifth~~Sixth priority in the issuance of ~~N~~new Principal Effort or Multi-Purpose Licenses and applicable endorsements shall be given to licensed non-residents who have held a lower level Rhode Island ~~n~~Non-rResident ~~fishing~~commercial license for two years or more with a lower harvest and gear level for two years or more; provided that non-resident applicants meet the requirements under subsection 6.11; and further provided that ~~species fishery~~ species fishery endorsements for ~~the quahaug and lobster endorsement categories are not available to~~ non-residents are limited to Restricted and Non-Restricted Finfish.
- ~~(k)~~ Sixth priority in the issuance of ~~new~~ Principal Effort or Multi-purpose Licenses ~~Seventh~~ priority in the issuance of new Principal Effort and Multi-Purpose Licenses and applicable endorsements shall be given to any other non-resident regardless of their prior licensing status or participation in commercial fishing.
- (l) The requirement that an applicant must have held a license with a lower harvest and gear level for two years or more in order to obtain a new Principal Effort or Multi-Purpose L~~icense with a higher harvest and gear level~~ is waived during the first two years that these regulations shall be in effect, ending on December 31, 2004. During this period, a demonstration that the applicant has held a license with a lower harvest and gear level for any period of time will be sufficient.

(6.7-6) Issuance of New Licenses Upon Sale of Vessel and/or Gear

- (a) Transfer or sale of licenses and endorsements between the buyer and seller of a vessel and gear is prohibited; ~~;~~ provided, however that if the seller of a vessel and gear who is actively fishing his or her license shall have first surrendered to the Department, the Department will, upon application, issue one new license to the purchaser of the vessel and gear if the requirements of subsection 6.7-6(b), following, are met. A license holder will be considered to have been actively fishing that license if he or she can demonstrate by dated landing slips that they have fished at least fifty (50) days in the year preceding the date that they surrender their license.
- (b) Applicants for new licenses pursuant to this subsection must be licensed and have held a lower level license for two (2) years or more; provided, however, that this two-year minimum requirement shall not take effect until January 2005. ~~a valid commercial fishing license with a lower harvest and gear level than the license, which has been surrendered.~~
- ~~(e)~~In issuing new licenses pursuant to this subsection, the Department may do so at a lower harvest and gear level than the license surrendered

by the seller where necessary to accomplish the purposes of a management plan adopted pursuant to section 6.2.

(c) New licenses issued pursuant to this section are not subject to the application deadline provisions set forth under section 6.7-3.

(6.7-7) Issuance of New Licenses and Operator Permits Under Hardship Conditions

(a) A hardship shall be deemed to exist if a license holder who is actively fishing dies or becomes permanently or temporarily incapacitated by illness or injury so as to not be able to fish for any period in excess of seven (7) fourteen (14) days. A license holder will be considered to have been actively fishing that license if he or she can demonstrate by dated landing slips that they have fished at least fifty (50) days in the year preceding the date of the hardship that they surrender their license.

(b) The Department will require proof of hardship in the form of a death certificate or a diagnosis and prognosis of the incapacity of the license holder signed by a medical doctor (M.D. or O.D.).

(c) In the case of permanent incapacity or death Upon verifying proof that a hardship exists, the Department will issue, upon application, a single, new, equivalent license to a member of the license holder's family who is a Rhode Island resident, on a one for one basis. That family member may be designated by the license holder or by mutual agreement among surviving family members if the license holder is deceased. If no such designation has been made or agreement achieved, the license will be issued, upon application, to a family member by lottery. Prior to issuance of the new license, the original license will be surrendered. The new license will be valid Transfers will be for the balance of the license year, and will be eligible for renewal pursuant to the terms and conditions set forth in section 6.7-3. are renewable in the case of permanent incapacity or death of the original license holder, or are temporary and only for the duration of a temporary incapacity.

(d) In lieu of subsection 6.7-7(c), in the case of permanent incapacity or death, the Department will issue, upon application, an operator permit to a Rhode Island resident designated by the incapacitated license holder, or in the case of death, by the deceased individual's next of kin. Said permit will serve as the legal equivalent of the license held by the original licensee, but will be limited to use on the vessel previously operated by the original licensee. Prior to issuance of the operator permit, the original license will be surrendered. The operator permit will be valid for the balance of the license year and

will be eligible for renewal once, at a cost equivalent to the original license, upon approval by the Director.

- (e) In the case of temporary incapacity, exceeding a period of fourteen (14) days, the Department will issue, upon application, an operator permit to a Rhode Island resident designated by the incapacitated license holder. Said permit will serve as the legal equivalent of the license held by the incapacitated license holder, but will be limited to use on the vessel previously operated by the incapacitated license holder. Prior to issuance of the operator permit, the original license will be suspended. The operator permit will remain valid for the balance of the license year, or until the return to wellness of the license holder, whichever occurs first. The operator permit will be eligible for renewal once, at a cost equivalent to the cost of the original license, upon approval of the Director. Upon the return to wellness of the license holder, the original license will, upon application, be reinstated and the operator permit will be surrendered.
- ~~(d) In the case of a hardship as defined in this subsection and only when a family member does not request that the license be issued to them, the Department may issue one license to a non-related individual, selected by the license holder, or if deceased, the license holder's next of kin.~~
- ~~(e) Subsequent renewal of any license issued under hardship conditions will be subject to general license renewal requirements and deadlines as set forth in subsection 6.7-3.~~
- ~~(f) In issuing licenses pursuant to this subsection, the Department may reduce harvest and gear levels where necessary to accomplish the purposes of a management plan adopted pursuant to section 6.2.~~
- (f) New licenses issued pursuant to this section are not subject to the application deadline provisions set forth under section 6.7-3.

(6.7-8) Requests for Reconsideration of License Denials

- (a) Any person whose application for a commercial fishing license was denied by the Department of Environmental Management, Office of Boat Registration and Licensing may file a written request for reconsideration with the Commercial Fishing License Review Board.
- (b) Requests for reconsideration must be submitted to the Board in writing ~~c/o/~~ the Office of Boat Registration and Licensing within ten (10) days of receipt of the denial. The request for reconsideration shall state the applicant's name and current mailing address and state the specific reason why the denial is in error with reference to the considerations enumerated in subsection 6.7-8(g).
- (c) The burden of proof shall be on the applicant to demonstrate to the Board that ~~they~~ he or she meets the criteria for issuance of a license.

- (d) A quorum of the Board shall review the denial, the request for reconsideration and additional evidence or testimony under oath or affirmation, if determined to be necessary by the Board.
- (e) The Board shall render a written recommendation to the Office of Boat Registration and Licensing within thirty (30) working days of the receipt of the request for reconsideration. The recommendation shall include the specific grounds for its decision and the vote of the Board. A copy of the recommendation will be mailed first class, postage prepaid, to the applicant.
- (f) If a written recommendation is not rendered within thirty (30) working days as set forth above, the preliminary decision of the Office of Boat Registration and Licensing shall become final and subject to appeal pursuant to Subsection 6.7-8(i)
- (g) In reaching its recommendation the Board shall consider:
 - (1) the impact that issuance of the license will have on the fisheries management program overall;
 - (2) equity with other license holders;
 - (3) consistency with prior agency decisions;
 - (4) consistency with management plans;
 - (5) unreasonable hardship to the applicant; and
 - (6) consistency with the provisions and purposes of Chapter 20-2.1 of the General Laws of Rhode Island and the rules and regulations set forth herein.
- (h) Within ten (10) working days of receipt of the recommendation of the Board, the Office of Boat Registration and Licensing shall issue a written decision affirming, denying or modifying the recommendation of the Board and shall state the rationale therefore. A copy of the decision will be mailed first class, postage prepaid, to the applicant.
- (i) The applicant may appeal the decision of the Office of Boat Registration and Licensing to the Administrative Adjudication Division for Environmental Matters pursuant to Rhode Island General Laws §42-17.7-1 et seq. and the procedures set forth in the Administrative Rules of Practice and Procedure of the Administrative Adjudication Division for Environmental Matters.
- (j) The written decisions of the Board and of the Office of Boat Registration and Licensing shall be provided and made part of the administrative record upon appeal to the Administrative Adjudication Division for Environmental Matters.

(6.8) Licenses, ~~and Species~~ Endorsements, and Vessel Declarations; Resident

(6.8-1) License Fishery Endorsements

Any Commercial Fishing or Principal Effort License issued pursuant to these regulations may upon demonstration of eligibility by the applicant

be endorsed to allow participation in any of the following fishery sectors at levels established pursuant to section 6.1-2:

- (a) Non-Lobster Crustacean
- (b) Lobster
- (c) Non-Quahaug Shellfish
- (d) Quahaug
- (e) Non-Restricted Finfish
- (f) Restricted Finfish

(6.8-2) Commercial Fishing License

- (a) Applicants must provide proof of Rhode Island residency and pay an annual fee of fifty dollars (\$50), plus twenty-five dollars (\$25) per species fishery endorsement.
- (b) The holder of a Commercial Fishing License may participate in any fishery sector for which he/she holds an endorsement at Basic Harvest and Gear Levels set by the Department pursuant to subsection 6.1-2.

(6.8-3) Principal Effort License

- (a) Eligible a Applicants must present proof of Rhode Island residency and pay an annual fee of one hundred and fifty dollars (\$150) which entitles them to fish in a single species fishery endorsement category.
- (b) The holder of a Principal Effort License may participate in any fishery sector for which he/she holds a species fishery endorsement at Full Harvest and Gear Levels as set by the Department pursuant to subsection 6.1-2.
- (c) The holder of a Principal Effort License may also obtain a Commercial Fishing License and applicable endorsements to fish other sectors at Basic Harvest and Gear Levels, and/or obtain additional species fishery endorsements on his or her Principal Effort License to fish other sectors at ~~Basic or~~ Full Harvest and Gear Levels, if such endorsements are ~~made~~ available by the Department for any given license year; provided, however, that he/she a license holder may not hold both a Principal Effort and Commercial Fishing License in the same fishery sector. The annual fee for such additional species fishery endorsements is seventy-five dollars (\$75) each.

(6.8-4) Multi-Purpose License

- (a) ~~Eligible a~~ Applicants must present proof of Rhode Island residency and pay an annual fee of three hundred dollars (\$300).
- (b) At the time of application, applicants must identify the fishery endorsement sector or sectors into which they intend to place significant fishing effort during the license year. This declaration of intent is for informational purposes and is non-binding.
- (c) The holder of a Multi-Purpose License may participate in ~~anyall open~~ fishery endorsement sectors at Full Harvest and Gear Levels as set by the Department pursuant to section 6.1-2.

(6.8-5) Student Shellfish License

- (a) Applicants must present proof of Rhode Island residency and pay an annual fee of fifty dollars (\$50).
- (b) Applicants ~~may~~ must be no older than twenty-three (23) years as of February 28 of the license year.
- (c) Applicants must present proof that they are ~~a~~ full-time students in the form of a notarized letter or transcript from the learning institution in which they are enrolled.
- (d) The holder of a Student Shellfish License may participate in the Quahaug ~~and Non-Quahaug Shellfish~~ endorsement sectors at Basic Harvest and Gear Levels.
- (e) The holder of a Student Shellfish License may also obtain a Commercial Fishing License and/or a Principal Effort License, with endorsements, to fish other sectors at Basic or Full Harvest and Gear Levels, if such licenses or endorsements are available for any given license year; provided, however, that the holder of a Student Shellfish License may not also hold a Commercial Fishing or Principal Effort License with a quahaug endorsement.

(6.8-6) ~~Over~~ Sixty-Four ~~ive~~ (64) ~~and Over~~ Shellfish License

- (a) Applicants must present proof of Rhode Island residency.
- (b) There is no fee.
- (c) Applicants must be at least sixty-five (65) years old as of February 28 of the license year.
- (d) The holder of an Over Sixty-Four ~~ive~~ Shellfish License may participate in the Quahaug ~~and Non-Quahaug Shellfish~~ endorsement sectors at Basic Harvest and Gear Levels.
- (e) The holder of an Over 64 Shellfish License may also obtain a Commercial Fishing License and/or a Primary Effort License, with endorsements, to fish other fishery sectors at Basic or Full Harvest or Gear Levels, if such licenses or endorsements are available for any given license year; provided, however, that the holder of an Over 64 Shellfish License may not also hold a Commercial Fishing or Principal Effort license with a quahaug endorsement.

(6.8-7) Gear Endorsements

- ~~(a) The Department will create gear endorsements for licenses issued pursuant to these regulations, which upon issuance will allow for the use of specified types of gear. The Department may, as needed, add to or delete from those endorsement categories. The fee for any endorsement categories so created will be no more than two hundred dollars (\$200) per year.~~
- ~~(b) In establishing gear endorsements and allowing fishing with such gear, the Department will consider the status of each fishery, levels of participation by existing license holders, the impact of that type of gear on fishing mortality, and the provisions of applicable fisheries management plans and programs.~~
- ~~(c)(a) Gear endorsement categories shall at a minimum include Fish Trap and Gill Net.~~
- ~~(c)(b) The Fish Trap Gear Endorsement shall registers the location of each fish trap. for an The annual fee shall be twenty dollars (\$20) per location. Applicants who are authorized to employ fish traps as of December 31, 2002 may obtain a Fish Trap Gear Endorsement, subject to the same terms and conditions in effect as of December 31, 2002. Subsequent fish trap endorsement opportunities shall be established by rule, pursuant to applicable management plans.~~
- ~~(c)(c) The Gill Net Gear Endorsement shall allows the holders of a Multi-Purpose License or Principal Effort License, with-endorsed for Restricted and Non-Restricted Finfish endorsements, to set a gill net for an annual fee of twenty dollars (\$20) for each net. Applicants who are authorized to employ gill nets as of December 31, 2002 may obtain a Gill Net Endorsement, subject to the same terms and conditions in effect as of December 31, 2002. Subsequent gill net endorsement opportunities shall be established by rule, pursuant to applicable management plans.~~
- ~~(d) By rule, the Department may add, eliminate, or modify gear endorsement categories; in so doing, the Department will consider the status of each fishery, levels of participation by existing license holders, the impact of the gear type on fishing mortality, and the provisions of applicable fisheries management plans and programs.~~

(6.8-8) Vessel Declarations

- (a) 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/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 and the required fee paid.
- (c) 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.
- (d) The annual fee for a vessel declaration is twenty-five dollars (\$25) per vessel for vessels up to and including twenty-five (25) feet in length, plus fifty cents (50¢) per linear foot for each whole foot over twenty-five (25) feet.
- (e) A declared vessel will be issued a decal, which must be prominently displayed on the port bow.
- (f) Declared vessels that are less than twenty-five (25) feet long may obtain a vessel declaration plate upon payment of an additional annual fee of fifteen dollars (\$15). The vessel -declaration- of the declared vessel may be temporarily transferred to another vessel less than twenty-five (25) feet long by affixing the aforementioned plate to that vessel. For purposes of this section, "temporary" shall mean not more than sixty (60) days, with one sixty (60) day extension in any given year by permission of the Department.

(6.9) Dealer's Licenses

(6.9-1) General Requirements

- (a) No person, partnership, firm, association, or corporation shall sell, purchase, barter or trade in any marine fisheries species unless having first obtained a dealer's license as provided for in this section for the applicable fishery; or unless the activity is exempt from licensing requirements as set forth in subsection (b) below.-
- (b) Any person, partnership, firm, association, or corporation engaged solely in the business of selling seafood to consumers, either directly or through restaurants or other retail outlets, and/or engaged solely in the processing or preparation of seafood for sale directly to consumers, is not required to be licensed under these regulations, provided that such person, partnership, firm, association, or corporation purchases or otherwise acquires said seafood from licensed dealers.
- (c) Applicants for a dealer's license shall complete such forms containing such information as the Department may require.
- ~~(b)~~(d) Applicants for a dealer's license must demonstrate that they or their registered agent maintain a fixed place of business in the State of Rhode Island at which transaction records will be maintained and made available for inspection during normal business hours.
- ~~(e)~~(e) Each license is valid for the calendar year in which it is issued upon payment of the required fee.

~~(d)(f)~~ A duly licensed dealer may transport any marine species otherwise subject to the requirement that a person transporting such species carry a Rhode Island commercial fishing license, so long as that dealer can demonstrate by a bill of lading that the fish in question had been sold by a duly licensed person.

(6.9-2) Multi-Purpose Dealer's License

- (a) The ~~holder of a Multi-Purpose Dealer's License may is license~~ ~~enables the holder to~~ buy and sell all wild marine fisheries species that may legally be landed in Rhode Island, but only in the amounts specified by rule. Licensed multi-purpose dealers may also buy and sell cultured marine fisheries species in accordance with applicable rules and regulations.
- (b) The annual fee is three hundred dollars (\$300).

(6.9-3) Finfish Dealer's License

- (a) The ~~holder of a Finfish Dealer's License may is license~~ ~~enables the holder to~~ buy and sell all wild finfish species that may legally be landed in Rhode Island, but only in the amounts specified by rule. Licensed finfish dealers may also buy and sell cultured finfish species in accordance with applicable rules and regulations.
- (b) The annual fee is two hundred dollars (\$200).

(6.9-4) Shellfish Dealer's License

- (a) The ~~holder of a Shellfish Dealer's License may is license~~ ~~enables the holder to~~ buy and sell all wild shellfish species that may legally be landed in Rhode Island, but only in the amounts specified by rule. Licensed shellfish dealers may also buy and sell cultured shellfish species in accordance with applicable rules and regulations.
- (b) The annual fee is two hundred dollars (\$200).

(6.9-5) Lobster Dealer's License

- (a) The ~~holder of a Lobster Dealer's License may is license~~ ~~enables the holder to~~ buy and sell all wild crustacean species, including lobster, that may legally be landed in Rhode Island, but only in the amounts specified by rule. Licensed lobster dealers may also sell cultured crustacean species in accordance with applicable rules and regulations.
- (b) The annual fee is two hundred dollars (\$200).

(6.10) Landing Permits; Resident

(6.10-1) General Requirements

- (a) A Landing Permit or a valid Rhode Island Resident Commercial Fishing, Principal Effort, or Multi-Purpose License with the appropriate FisherySpecies Endorsement(s), but not both, is required to land, sell, or offer for sale any seafood product legally harvested outside of Rhode Island waters.
- (b) The Department will issue a Landing Permit upon proof that a Rhode Island resident holds a valid federal or non-Rhode Island state permit(s) to harvest a given species or group of similar species, provided that the Rhode Island landing permit so issued will only allow the landing of those species authorized by said federal or state permit.
- (c) A Landing Permit is issued to an individual 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.
- (d) The individual in charge of a vessel subject to this ~~sub~~section must be in possession of a Landing Permit issued to that individual in order for that vessel to legally enter Rhode Island waters.

(6.10-2) Resident Finfish Landing Permit

- (a) The holder of a Resident Finfish Landing Permits may the-landing, sellsale, or offering for sale ~~of~~ finfish species, but only in amounts specified by rule.
- (b) The annual fee for a Resident Finfish Landing Permit is two hundred dollars (\$200).

(6.10-3) Resident Shellfish Landing Permit

- (a) The holder of a Resident Shellfish Landing Permits may the-landing, sellsale, or offering for sale ~~of~~ surf clams, blue mussels, ocean quahaugs, or sea scallops, including processed products, but only in the amounts specified by rule.
- (b) The annual fee for a Resident Shellfish-Landing Permit is two hundred dollars (\$200).

(6.10-4) Resident Crustacean Landing Permit.

- (a) The holder of a Resident Crustacean Landing Permits may the landings, sellsale, or offering for sale ~~of~~ any crustacean species, including lobster, but only in the amounts specified by rule.
- (b) The annual fee for a Resident Crustacean Landing Permit is two hundred dollars (\$200).

(6.10-5) Resident Multi-Purpose Landing Permit

- (a) ~~The holder of a Resident Multi-Purpose Landing Permits may the landing, sell, sale, or offering for sale of any marine fishery species or product, but only in the amount specified by rule.~~
- (b) The annual fee for a Resident Multi-Purpose Landing Permit is three hundred dollars (\$300).

(6.10-6) Resident Miscellaneous Landing Permit

- (a) ~~The holder of a Resident Miscellaneous Landing Permits may the landing, sell, sale or offering for sale of any seafood product not specified elsewhere in this subsection, but only in the amount specified by rule.~~
- (b) The annual fee for a Miscellaneous Landing Permit is two hundred dollars (\$200).

(6.11) ~~Non-Resident Licenses, and Endorsements, and Vessel Declarations; Non-Residents~~

(6-11.1) Non-Resident License Endorsements

~~The requirements of subsection 6.8-1 apply. Any Commercial Fishing or Principal Effort License issued pursuant to these regulations to a non-resident may, upon demonstration of eligibility by the applicant, be endorsed to allow participation in the following fishery sectors at levels established pursuant to section 6.1-2:~~

- ~~(a) Non-Restricted Finfish~~
- ~~(b) Restricted Finfish~~

(6-11.2) Non-Resident Commercial Fishing License

- (a) Applicants must be at least eighteen (18) years old.
- (b) The holder of a Non-Resident Commercial Fishing License may participate in either or both fishery sectors for which he/she holds an endorsement~~fish at the levels and for the species specified in subsection 6.8-2~~, provided that his/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.~~affords Rhode Island residents the same privilege and in a manner that is not more restrictive.~~
- (c) It shall be the applicant's burden to prove that his/her state of residence provides Rhode Island residents the privileges referenced in subsection ~~6.11-2~~(b) above through a certified copy of the relevant regulation. This copy is to be forwarded to the Marine Fisheries section of the Department of Environmental Management, Division of Fish and Wildlife for review and approval a minimum of two weeks before a license may be issued.
- (d) The annual fee for a Non-Resident Commercial Fishing License shall be one hundred and fifty dollars (\$150) plus fifty dollars (\$50) per endorsement.

(6.11-3) Non-Resident Principal Effort License; Renewals

- (a) Applicants who possessed a valid ~~must have held a~~ Rhode Island non-resident commercial fishing license as of December 31, 2002 may obtain a Non-Resident Principal Effort License, with Non-Restricted and/or Restricted Finfish Endorsements, provided applicants can demonstrate that their state of residence complies with section 6.11-2(b) as regards treatment of Rhode Island residents.
- ~~(b) Applicants may obtain a single fisheries sector endorsement for the fishery for which they were licensed as of December 31, 2002, and will be subject to any other restrictions applicable to the license they held as of December 31, 2002.~~
- ~~(c)~~(b) The provisions of this section~~rights granted applicants pursuant to subsections 6.11-3(a) and 6.11-3(b), above,~~ apply only to the ~~2003~~ license year beginning on January 1, 2003, and the issuance of licenses pursuant to this section is subject to the license application only, and then only within the deadlines and other requirements set forth under subsections 6.7-1, 6.7-2, and 6.7-3.
- ~~(d) All such rights expire as of Midnight, February 28, 2003. Applicants must demonstrate that their state of residence complies with subsection 6.11-2(b) as regards treatment of Rhode Island fishers.~~

~~(f)~~(c) The annual fee for a Non-Resident Principal Effort License shall be four hundred dollars (\$400), plus one hundred dollars (\$100) per endorsement.

~~(g)~~(d) The holder of a Non-Resident Principal Effort License may harvest, land and sell any species of fish for which he/she holds the appropriate endorsement at Full Harvest and Gear Levels established pursuant to subsection 6.1-2.

(6.11-4) Non-Resident Principal Effort License; New

- (a) Consistent with the provisions of subsection 6.7-5(a), the Department may issue new licenses only where a duly adopted management plan finds excess harvesting capacity in a specific fishery endorsement sector.
- (b) New licenses will be made available in the priority order established by law and as further described in subsection 6.7-5(b).

(6.11.5) Non-Resident Vessel Declaration

- (a) Applicants must comply with the requirements of subsection 6.8-8, provided that temporary transfers of vessel declarations between vessels less than twenty-five (25) feet in length are not permitted.
- (b) The fee for a Non-Resident Vessel Declaration shall be fifty dollars (\$50), plus one dollar and fifty cents (\$1.50) for each whole foot over twenty-five (25) feet in length overall.

(6.11-6) Non-Resident Landing Permits

- (a) ~~The holder of a~~ Non-Resident Landing Permit ~~mayis required to~~ land, sell, or offer for sale in Rhode Island any seafood product legally harvested by a non-resident outside of Rhode Island waters.
- (b) The Department will issue a Non-Resident Landing Permit upon proof that an individual holds a valid commercial fishing license issued by his or her state of residence, or a federal permit(s) to harvest a given species or group of similar species, provided that the Landing Permit so issued will only allow the landing of those species authorized by said state license or federal permit.
- (c) The annual fee for a Non-Resident, Non-Restricted Finfish, Shellfish, Crustacean or Miscellaneous Landing Permit is four hundred dollars (\$400), and the annual fee for a Non-Resident, Multi-Purpose landing permit is six hundred dollars (\$600).
- (d) New Non-Resident Landing Permits will only be issued for restricted species 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 duly adopted fisheries management plan determines there to be excess harvesting capacity in the Rhode Island commercial quota for that species.
- (e) Renewal of Non-Resident Landing Permits for restricted species are considered to be new permits subject to the provisions of subsection 6.11-6(c) unless the applicant can show evidence of Rhode Island landings of more than one thousand pounds of that species per year

in four of the five years preceding the application. Having made that demonstration, a holder of a Non-Resident Landing Permit for a restricted species who held that permit as of December 31, 2002 may renew it annually as set forth herein.

- (f) If a non-resident vessel is upgraded by twenty percent (20%) or more in length, displacement or horsepower, renewal of a Landing Permit for a restricted species will be considered a new permit application, issuance of which is subject to the requirements of subsection 6.11-6(c).
- (g) Transfers of Non-Resident Landing permits are prohibited and do not attach to a vessel upon its sale.

(6.12) Exceptions

If the operator of a vessel carrying seafood products notifies the Division of Law Enforcement at least four hours before entering Rhode Island waters that he/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 is required.

(6.13) Penalties

(6.13-1) Violations

- (a) Violations of these regulations may subject the violator to the revocation or suspension of any license, endorsement or permit issued pursuant thereto.
- (b) Revocations or suspensions may be appealed to the Administrative Adjudication Division.

(6.13-2)False Statements

- (a) Any person who willfully misrepresents any fact or facts required to be provided in support of any license, endorsement, or permit application provided for herein, or who is party to such willful misrepresentation, shall be punished by a fine of not more than fifty dollars (\$50).
- (b) Any license, endorsement, or permit obtained as a result of such false statements or misrepresentations shall be null and void and shall be surrendered to the Department forthwith.
- (c) No new license, endorsement, or permit may be issued to any violator of this section for a period of one (1) year from the date that penalties are imposed.

(6.13-3)Alterations, Forgeries and Counterfeits

- (a) Any person who falsely makes, alters, forges, or counterfeits, or who causes to be falsely made, altered, forged or counterfeited, a license, endorsement, or permit issued pursuant to these regulations, or who shall have in his or her possession such a license, endorsement, or permit, knowing it to be false, altered, forged or counterfeit is guilty of a misdemeanor and subject to a fine of not more than five hundred dollars (\$500) and imprisonment for not more than ninety (90) days, or both.
- (b) No new license endorsement or permit may be issued to any violator of this section for a period of one (1) year from the date that penalties are imposed.

(6.13-4)Failure to Present a License

Holders of any type of commercial fishing license must have them on their person while fishing and must present them for inspection upon request by individuals authorized by the Director. Refusal to present a license is subject to the same penalties as fishing without a license.

RULE 7. SEVERABILITY

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