

250-RICR-50-00-1

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

### **CHAPTER 50 - DIVISION OF COASTAL RESOURCES**

#### **SUBCHAPTER 00 - N/A**

PART 1 - Port Operations Regulations and Berthing Management System

#### **1.1 Purpose**

The purpose of these rules and regulations is to establish a system for the provision of proper care of any State run facilities by the Department of Environmental Management.

#### **1.2 Authority**

These rules and regulations are promulgated pursuant to R.I. Gen. Laws §§ 42-17.1-1 *et. seq.*, 46-5-1 *et. seq.*, and 46-22-1 *et. seq.*, R.I. Gen. Laws §§ 32-2-4 and 42-17.10-1, and in accordance with R.I. Gen. Laws § 42-35-1 *et. seq.*, the Administrative Procedures Act.

#### **1.3 Administrative Findings**

These rules and regulations are required in order to ensure proper management of the Port facilities under the control of the Department of Environmental Management.

#### **1.4 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.

#### **1.5 Severability**

If any provision of these rules and regulations, or 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.

#### **1.6 Superseded Rules and Regulations**

On the effective date of these rules and regulations, any previous regulations and policies regarding administration of the Port of Galilee within the authority of the Department shall be superseded. However, 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 filed.

## 1.7 Definition of Terms

- A. "Actively engaged in fishing" means any license holder who has actively fished that license/endorsement. In order to actively fish that license/ endorsement, the person must demonstrate by dated transaction records, as verified by dealer reports to the Department that he or she has fished at least seventy-five (75) days in the preceding two calendar years, with some of the fishing activity occurring in each of the two years. Evidence as to days fished may be supplemented by one or more Vessel Trip reports, which specifically reference the license holder's name and license number, and correspond to dated transaction records, where in the determination of the Department such dates are verified by dealer reports to the Department; where such reports verifiably reflect two or more calendar days at sea during a single trip, those days may be used to establish fishing activity. For the purpose of this definition the term "day" shall mean any 24-hour period or part thereof. A license holder with a dockside sales endorsement who sells all of his or her lobster and/or crab landings dockside may utilize documentation other than dated transaction records to establish fishing activity, pursuant to the standards and criteria set forth in § 20.6. of this Title.
- B. "Abandoned vehicle" means a vehicle left on state-managed property without authorization beyond XX days.
- C. "Backdown slip" means any water-based docking position for a vessel by which the vessel typically backs into the spot stern-side with the bow of the vessel facing seaward.
- D. "Berth" or "berthing" means an assigned location on a pier for a vessel to tie to or to raft alongside another vessel when direct access to the assigned location on the pier is not available; primarily for the purposes of loading and unloading.
- E. "Berth contract" means the written berth agreement between the Division of Coastal Resources and a vessel's owner or operator.
- F. "Charter boat" means a vessel less than 100 gross tons that meets the requirements of the U.S. Coast Guard to carry six or fewer passengers-for-hire for the purposes of engaging in recreational fishing and other types of for hire activities.
- G. "Commercial fishing vessel" means a vessel that commercially engages in the catching, or harvesting of fish or marine species or engages in an activity that can reasonably be expected to result in the catching, or harvesting of fish or marine species.
- H. "Department" or "DEM" means the Department of Environmental Management.
- I. "Director" means the Director of the Department of Environmental Management.

- J. "Division of Coastal Resources" or "Division" means Division of Coastal Resources of the Department of Environmental Management.
- K. "Facility", "Pier," or "Port" means the State owned piers.
- L. "Family member" means the spouse, mother, father, brother, sister, child or grandchild of the person holding a valid berth contract with the Division. For purposes of these regulations in compliance with Executive Order 12-02, "Recognition of Out of State, Same-Sex Marriages" that was issued by Governor Chafee on May 14, 2012, "spouse" shall be defined to include either party who has entered into a marriage that is legally recognized in the state or territory in which the marriage was solemnized".
- M. "Person" means an individual, firm, corporation, society, association, partnership or private or public body.
- N. "Vessel" means the same as "Boat."
- O. "Headboat" or "Party boat" means a vessel that holds a valid Certificate of Inspection issued by the U.S. Coast Guard to carry greater than six passengers-for-hire for the purposes of engaging in recreational fishing.
- P. "Off-season temporary berth" means berths that become available for temporary berth assignment purposes as a result permanent berth holder vessels being hauled out of the water for winter.
- Q. "Owner" means the owner of the vessel, or in the absence of the owner, such other person or business who is in charge of the vessel on the date of the signed berth contract.
- R. "Port of Galilee" means the improved and unimproved area of the Town of Narragansett, which is located in the west passage of Narragansett Bay.
- S. "Service by a leaseholder" means exclusive use of docks by a leaseholder for loading and unloading of vessels which utilize a leaseholder's shore-side business.
- T. "State" means the State of Rhode Island.
- U. "Transient vessel" means any vessel without a berth contract.
- V. "Transient vessel temporary berth contract" means any temporary berth contract entered into with the Division by a vessel owner or operator that is not deemed to be a Temporary Off-Season Berth Contract or a One Year Probationary Period Temporary Berth Contract.
- W. "Temporary berth contract" means any contract held by a vessel owner without a permanent berth contract.

## 1.8 Use of Piers

- A. No vessel shall berth at State owned facilities or at facilities owned by the State and leased to private entities without a signed, current berth contract, or without prior written approval by the Division.
- B. The initial application for a berth contract shall be submitted by the vessel owner, operator, or designated agent to the Division on application forms available from Division. Applications should be submitted as early as possible since dockage space will be assigned according to the waiting list procedures contained within these regulations. At the time the berth application is submitted, the applicant, and vessel, must hold any necessary licenses, permits, declarations, and insurance required for the specific category of vessel for which the applicant is requesting a berthing assignment.
- C. An application waiting list will be maintained by the Division of Coastal Resources for each of the categories of vessels authorized to berth in State owned facilities with the exception of sport fishing vessels. Those applicants who meet the initial application criteria required to enter into a berth contract for that category will be permitted to execute a berth contract in the chronological order by which the applicant appears on the waiting list until all open berth positions are filled. If a qualified applicant does not meet the criteria of the open berth according to the information contained within their berth application, then that person will not be contacted, will remain at the top of the waiting list and will be given priority once an appropriate berth is open. An applicant is responsible for contacting the Division with any updates and changes to information contained within their berth application to ensure his/her qualification and compliance therein. If the applicant refuses a berth contract when the applicant's name comes up, the applicant will be removed from the waiting list unless the applicant requests that his/her name be placed back on the waiting list. If such a request is received, the applicant will be placed back on the end of the waiting list per the date of refusal. A vessel owner whose application has been approved and who has been so notified, shall pay the required dockage fee and any arrearages owed by the applicant or vessel to be berthed prior to the signing of a berth contract. If such payment is not received within ten (10) days after an applicant's receipt of notice of approval of an application, the State may deem the approval withdrawn, and consider other applications.
- D. The Division shall have the right to assign berths to vessels at its sole discretion. Among the factors that the Division should consider in determining such assignments are the following: pier and dock configuration, size of vessel, hull type, berthing space available, and any other factor which will produce the most efficient utilization of berthing space including seniority and fishing activity of the vessel(s).
- E. The waiting list shall be reviewed every five (5) years. Applicants on the waiting list will be contacted requesting if they wish to continue to remain on the waiting

list. Failure to respond to such a request will result in the removal of the applicant's name from the waiting list. An applicant whose name has been removed will be required to reapply in order to be placed back on the waiting list. When an applicant reapplies to be placed on the waiting list, that applicant's name will be added to the bottom of the waiting list.

- F. A preference will be given in assigning vacant berths to vessels whose owners are Rhode Island residents.
- G. Before entering into a signed berth contract for a permanent berthing position there is a one year probationary period. During this one year probationary period, the new berth holder will be required to sign a temporary berth contract. During this one year probationary period, the temporary berth contract holder must demonstrate compliance with the terms of the temporary berth contract as well as these regulations subject to the discretion of the Division of Coastal Resources. Failure to comply with the terms of either the berth contract or these regulations will result in the revocation of the temporary berth contract and receipt of written notice to the vessel's owner that the vessel must be removed from the port within one (1) week of receiving written notice. If the vessel's owner fails to comply with the removal of the vessel, then the vessel will be removed by DEM or their agents at the vessel owner's expense. If after the one (1) year probationary period the temporary berth contract holder has demonstrated compliance in sole discretion of the Department with the terms of their temporary berth contract and these permanent governing regulations then the vessel's owner may enter into a permanent berth contract.
- H. Berth contracts shall be signed and deemed valid for no more than one (1) year from the date of execution. All berth contracts expire on June 30th of the preceding year of first assignment. All fees previously due shall be paid in full in advance of the issuance of a berth contract. A vessel owner who signs a berth contract and who is not in arrears on any payments or other financial obligations to the Department shall have the option to renew his/her berth contract for the following year. Dockage fees in arrears for fifteen (15) days or more after the due date shall be considered cause for revocation of berth contracts. Revocation of a berth contract will follow receipt of written notice by the vessel's owner that the vessel must be removed from the port within one (1) week of receiving written notice. If the vessel's owner fails to comply with the removal of the vessel, then the vessel will be removed by DEM or their agents at the vessel owner's expense. The Division may postpone enforcing this regulation, at its discretion, if there are circumstances deemed to warrant an enforcement delay. Postponement of enforcement by the Division does not waive future enforceability. Berthholders who breach their berth contract and are provided notice to leave the port and cannot be reinstated in the port or be placed on a waiting list for entry into the port until all past due amounts are paid in full. Furthermore, if a former berthholder is allowed to reapply for a berth in the port, said applicant's name shall be placed at the bottom of the waiting list and the

applicant's position on the waiting list will be based on the date the application was received.

- I. If a berth contract holder is in arrears with their dockage fees or other financial obligations to the Department, the berth contract holder may enter into a signed, written payment agreement with the Division to bring the outstanding debt current. Failure to comply with this payment agreement will void the payment agreement, the berth contract will be revoked and the berth holder will be required to leave the Port. All fees due shall be paid in full in advance of the renewal of the berth contract. If a berth contract holder is in arrears with their dockage fees and has entered into an approved and signed payment agreement with the Division, then a berth contract may be renewed subject to the approval of the Division.
- J. When a vessel is sold, the berth contract does not transfer with the sale of the vessel. The berth contract is valid for the remainder of the contract term and may be renewed by the original vessel owner provided that the new vessel is purchased within one (1) year of the sale of the previously owned vessel and all fees remain paid in full. The sale of the ownership of 50% or more in the ownership of a vessel shall be deemed to be the sale of the vessel with the same prohibition on the transfer of berthing rights as described above. If the vessel is incorporated, the original owner of the vessel or corporation must own 51% or more of the corporation for the vessel to still be subject to the terms of the original berth contract. If the vessel is incorporated, and the original owner of the vessel or corporation owns less than 51% of the corporation then the original berth contract is void and the vessel must be removed from the Port.
- K. A vessel owner has the obligation to notify the Division when he or she is putting his or her vessel up for sale. Once a vessel is sold, the berth contract holder has one (1) year to acquire a new vessel and berth that vessel at State owned facilities or else waive berth contract renewal rights. During this time the berth contract holder will continue to be responsible for payment to the Department for dockage fees billed at the original rate based on the size of the sold vessel and berthing position. Once a berth contract holder acquires a new vessel the berth contract holder will be allowed to return to the port only if, (1) the berth contract holder is current on the applicable berthing fees and (2) the berth contract holder is returning to the port with a vessel that the Division deems appropriate for the original berthing position assigned. If the berth contract holder acquires a new vessel which is deemed not size appropriate for the original berth position by the Division, then a new berthing will be assigned appropriate for the size of the new vessel. If no appropriate berthing position is available for the size of the new vessel, then a new berth assignment will not be designated and the berth contract holder will be placed at the top of the waiting list and given priority once an appropriate berth is open. If a berthing position is not available for the new vessel, billing will cease until a new berth is assigned for the new vessel. Until an appropriate berth slip is available and assigned to the berth contract holder, the berth contract holder shall not be allowed to enter at the Port with the new

vessel. If a new berth position is assigned to the new vessel, the dockage fees required pursuant to the berth contract will be amended to reflect the change in berth assignment for the new vessel.

- L. In the event the berth contract holder wishes to substitute a vessel, the berth contract holder shall give the Division full particulars and request prior approval to substitute the new vessel. No vessels may be substituted within the Port without prior written approval from the Division.
- M. Berth contracts will be maintained unless a vessel's owner fills out a cancellation of berth contract form. Billing will cease on the day the cancellation form is signed and returned to the Division of Coastal Resources main office located within the Port of Galilee. There is no penalty for early cancellation of a berth contract so long as the vessel is removed from the Port within one (1) week of receipt of notice of cancellation. If after one (1) week the vessel has not been removed from port, the vessel will be given transient status and billed according to the transient vessel berth holder provisions contained within these regulations.
- N. Vessel owners shall promptly notify the State of any change in home or business address, change in boat name, vessel's length or any information contained in a previously filed application form or berth contract.
- O. Should the holder of a berth contract die, a berth contract may transfer to a duly qualified family member of the berth contract holder. Family Members of the contract holder must meet the eligibility requirements and standards of dockage and regulation requirements in order to retain a berth contract. If a family member meets the eligibility requirements and standards of dockage and regulation requirements deemed to enter into a berth contract, the original berth contract will be void and a new berth contract between the Division and the family member with a one (1) year probationary period will apply.
- P. If the Division is required to provide written notice to a vessel owner pursuant to these regulations or an executed berth contract, said notice shall be deemed to be complete upon mailing by pre-paid first class postage to the last home or business address provided to the Division by the vessel owner and delivery of such notice shall be deemed to have been received by the boat owner five (5) days from the posting of notice in any office of United States Post Office located within the State of Rhode Island.
- Q. A permanent berth contract holder shall notify the Division in advance if his/her berth will not be used for a period of two weeks or longer. If the Division is provided such advance notice, the berth contract holder has up to one (1) year of leaving Port to return to Port in order to be reassigned his/her berthing assignment. During the period away from Port, the berth contract holder will continue to be billed despite absence of the vessel. The Division may not reassign a vessel to the berth to which it was previously assigned unless, prior to vessel's return to port, all of the berth contract holder's dockage fees are current.

- R. No refund will be made for any unused dockage.
- S. The Division shall have the right to terminate a contract and require removal of the berth contract holder's vessel for any violation of these regulations, including, but not limited to, non-payment of fees when due, and violations of these regulations.
- T. The fee for a berth is dependent upon the length of the vessel. For this purpose, the length shall be determined by the overall length of the vessel on the Coast Guard documentation or Rhode Island vessel registration rounded to the nearest foot. In addition, any changes made to the length of the vessel not reflected in the Coast Guard documentation or the Rhode Island vessel registration, such as but not limited to the addition of a transom extension or pulpit, shall be taken into account to determine the vessel's overall length to the nearest foot and shall be reflected in the fees for berthing. The Division reserves the right to re-measure and adjust all billings if the length overall (LOA) of the vessel is different than what is stated within the berth contract.
- U. A berth assignment list shall be maintained by the Division. Berths may be reallocated at the sole discretion of the Division from time to time in order to make more efficient use of the piers. Among the factors that the Division should consider in determining such assignments are the following: pier and dock configuration, size of vessel, hull type, berthing space available, and any other factor which will produce the most efficient utilization of berthing space including seniority and fishing activity of the vessel(s).
- V. The berth contract schedule is:
1. Berth contracts shall cost \$40.00 per foot of vessel length per annum.
  2. Port of Galilee
    - a. The minimum rate for the medium duty commercial fishing docks is based on 40-foot vessels. All vessels at the medium duty backdown commercial fishing docks shall be charged for the minimum plus all footage over forty (40) feet.
    - b. The minimum rate for the light duty backdown docks is based on 35-foot vessels. All vessels at the light duty backdown docks shall be charged for the 35-foot minimum plus all footage over thirty-five (35) feet.
    - c. The minimum rate for all vessels within the Port not berthed in a medium or light duty dock is based on 25-foot boats. All vessels less than twenty-five (25) feet in length shall be charged at the 25-foot minimum.



3. Port of Newport, State Pier #9 - The minimum rate for all vessels within the Port not berthed in a medium or light duty dock is based on 20-foot boats. All vessels less than twenty (20) feet in length shall be charged at the 20-foot minimum.
4. Transient vessels are all vessels without a permanent or temporary berth contract. All transient vessels must apply directly to the Division at its office at the Port of Galilee for a transient vessel temporary berth contract. A transient vessel owner, master, or designee must sign a transient vessel temporary berth contract in order for the transient vessel to remain in Port and be assigned a temporary berth. The daily minimum rate for transient vessels is \$50.00 per day. All vessels longer than 50-feet shall be charged \$50.00 per day plus \$1.00 per foot per day for all footage over fifty (50) feet. The owner of a transient vessel who has been issued a transient vessel temporary berth contract shall be assessed a fee of \$50.00 dollars plus \$1.00 per foot for all footage over fifty (50) feet per day.
  - a. A transient vessel temporary berth contract holder shall make the berth available to the permanent berth contract holder to whom the berth is assigned upon receiving notice. Transient vessel temporary berth contract holders may be required, by the Division, to move or vacate the berth or Port upon twenty-four (24) hours' notice. Upon receipt of notice to move or vacate the berth by the Division the transient vessel temporary berth contract holder must comply with the instructions contained within the notice within twenty-four (24) hours.
  - b. If a vessel owner fails to comply with the written notice to remove the vessel, then the vessel shall be removed at the owner's expense by the Division.
5. During the off-season (as berths become vacant as a result of boats being hauled out for the winter), the Division may temporarily assign these berths in accordance with the following fee schedule:
  - a. Off-season temporary berth contracts shall cost \$40.00 per foot of vessel length per annum.
  - b. There is no waiting list for temporary off-season berths. Temporary off-season berths shall be assigned on a first come first serve basis, including assignments to noncommercial vessels, in accordance with the availability of space. These assignments shall not contribute toward the port seniority nor change one's relative position on any full time berth waiting list.
  - c. Berth assignments are made at the Division's sole discretion. Off-season temporary berth assignments may be reallocated at the

sole discretion of the Division, including, but not limited to, the maximum utilization of State infrastructure for the continued flow of commerce. Upon receipt of notice to move or vacate the berth by the Division the off-season temporary berth contract holder must comply with the instructions contained within the notice within twenty-four (24) hours.

- d. An off-season temporary berth contract holder shall make the berth available to the permanent berth contract holder to whom the berth is assigned upon receiving notice. Off-season temporary berth contract holders may be required, by the Division, to move or vacate the berth or port upon twenty-four (24) hours' notice. Upon receipt of notice to move or vacate the berth by the Division the off-season temporary berth contract holder must comply with the instructions contained within the notice within twenty-four (24) hours.
- e. If a vessel owner fails to comply with the written notice to remove the vessel, then the vessel shall be removed at the owner's expense by the Division.

W. A berth contract for berthing space does not bestow the berth contract holder with the right to occupy land on the waterfront in any manner except as explicitly provided in these regulations.

X. Berthing Contract Criteria by Vessel Class

- 1. There are no Charter Boats, Headboats, or Sports Fishing vessels allowed to berth at State Pier #9, Port of Newport.
- 2. Charter Boats
  - a. Berth contracts will be entered into only for those vessels which are, and will be, actively engaged as charter boats during the year for which the berth contract is signed.
  - b. Applicants for a berth contract must hold all required Federal licenses to carry passengers for hire.
  - c. Applicants for a berth contract must hold all State required licenses for charter vessels.
  - d. Copies of all applicant's Federal and State licenses required for charter vessels must be include in an applicant's initial application and any subsequent renewal applications for a berth contract.
  - e. Applicants for a berth contract must demonstrate that they will be engaged in carrying passengers for hire by certifying:

- (1) That the vessel is documented in Coastwise Trade if it is over five (5) tons (to carry passengers for hire);
    - (2) That the vessel was used for carrying passengers for hire by certifying through official transaction records on at least twenty (20) days of the previous year.
  - f. Upon application for the renewal of a permanent berth contract, applicants who do not meet the above minimum requirements may be given probationary status at the sole discretion of the Division. Postponement of enforcement by the Division does not waive future enforceability.
3. Headboats (Party Boats)
- a. Berth contracts will be issued only for those vessels which are and will be actively engaged in carrying passengers for hire on a daily scheduled basis during the year for which the contract is issued.
  - b. Applicants for a berth contract must be holders of a valid license from the Coast Guard for carrying more than six (6) passengers for hire with appropriate tonnage in addition to all required Federal licenses for the operation of that type of vessel. Copies of a valid license from the Coast Guard and required Federal licenses must be included in an applicant's initial application and any subsequent renewal applications for a berth contract.
  - c. Vessels must hold a current Certification of Inspection by the U.S. Coast Guard and should be included in applicant's initial application and any subsequent renewal applications for a berth contract.
  - d. Applicants for berthing contracts must meet all State requirements for Party and Charter Vessels.
  - e. Applicants for berth contracts must demonstrate that they will be engaged in carrying passengers-for-hire by certifying:
    1. That the vessel is documented in Coastwise Trade (to carry passengers for hire);
    2. That the vessel was used for carrying passengers for hire on at least twenty (20) days of the previous year.
  - f. Upon application for the renewal of a permanent berth contract, applicants who do not meet the above minimum requirements may be given probationary status at the sole discretion of the Division. Postponement of enforcement by the Division does not waive future enforceability.

4. Commercial Fishing Boats

- a. Berth contracts will be issued to only those vessels which are and will be actively engaged as commercial fishing vessels during the year for which the contract is signed.
- b. Initial applicants and renewals for berth contracts must demonstrate that they are engaged in commercial fishing by certifying through valid dated transaction records that the vessel was engaged in commercial fishing on at least seventy-five (75) days over the past two calendar years with at least some activity in each of the two (2) years.
- c. Initial applicants and renewals for berth contracts must list vessel operators that hold the appropriate fishing licenses, be holders of an appropriate current Rhode Island commercial fishing license authorizing the commercial harvest of fish or marine species, or current Rhode Island landing license.
- d. Upon application for the renewal of a permanent berth contract, applicants who do not meet the above minimum requirements may be given probationary status at the sole discretion of the Division. Postponement of enforcement by the Division does not waive future enforceability.

5. Sport Fishing Boats

- a. No new Sport Fishing berths will be available in the Port of Galilee. Only the vessel owners which currently hold a Sport Fishing berth contract are allowed to berth within the Port of Galilee.
- b. A Sport Fishing Vessel (SVF) berth contract is only valid for those specific vessel owners which are currently authorized to maintain berthing rights as SFV into the Port of Galilee.
- c. Should the holder of a Sport Fishing berth contract die, the berth contract will not become the right and obligation of his/her estate and the estate has six (6) months to remove the Sport Fishing vessel from the Port of Galilee.

Y. All vessels in Port must have all of their U.S Coast Guard Documentation or Rhode Island Certificate of Numbers (Boat Registration) and Commercial Vessel Declaration current and valid at all times while in Port.

Z. Dumping of garbage, oil, refuse, fish offal, or other substances in public tidewaters of the State is prohibited by State and Federal Laws and shall be considered cause for immediate revocation of a berth contract. Waste oil from fishing vessels shall be properly disposed of in the designated waste oil

collection tanks. Used filters shall only be properly disposed of in the provided collection barrels. The collection areas shall be kept clean, free of debris, and oil spills shall be immediately reported to the Division.

- AA. No trash shall be stored on the docks and piers. A dumpster maintained by the Division, located at the Division's office in the Port of Galilee, is reserved exclusively for the disposal of waste generated by vessels whose owners hold current berth contracts. The use of the dumpster for disposal of any waste other than that waste generated by commercial fishing vessels whose owners hold berth contracts constitutes a violation. In addition, any illegal disposal by a berth contract holder constitutes a violation of these regulations and, as such, shall result in the termination of the berth contract of the violator by the Division.
- BB. The use of, or the tampering with, Port electricity or infrastructure by any individual, including fishing vessel owners or operators, without prior Division consent, is strictly prohibited. Any illegal use of Port electricity or infrastructure by a berth contract holder and/or his/her agents shall result in the immediate termination of the berth contract of the violator by the Division.
- CC. No chest freezers shall be allowed to remain on a pier or on land adjacent without written authorization by the Division.
- DD. Storage of Gear
  - 1. Port of Galilee - No gear, barrels, nets, equipment, or other material shall be allowed to remain on a pier in a manner which obstructs safe passage or use. Passage over the piers shall remain unobstructed at all times. No gear, barrels, equipment or other materials shall be allowed to obstruct passage to the piers or on land adjacent and providing access to the pier.
  - 2. Port of Newport, State Pier #9
    - a. Commercial fishing gear may be stored on the pier in the designated storage areas subject to the following restrictions:
      - 1. No vessels or vehicles may be stored in designated storage areas.
      - 2. Storage areas must be kept clean and free of trash or debris at all times.
      - 3. Storage areas are subject to inspection by the Division at any time.
      - 4. No storage of material other than commercial fishing gear is permitted in gear storage areas.

5. Any misuse of gear storage areas will result in revocation of permitted use and all materials must be removed by the owner within 24 hours.

b. Passage over the piers shall remain unobstructed at all times. No gear, barrels, equipment or other materials shall be allowed to obstruct passage to the piers. The center four feet (4') of the "L" Pier must be kept clean at all times.

c. Unless previously authorized by the Division, any storage outside of a vessel must be kept freely accessible for Division inspection.

EE. Storage of Bait at either facility is only permitted in compliance with the following restrictions:

1. Storage of unrefrigerated bait must be in sound barrels, i.e. plastic barrels without leaks and with tight fitting lids;
2. All unrefrigerated bait must be salted down, covered or preserved.
3. Maggot infested bait will be removed from the pier by the Division and disposed of immediately;
4. Division staff has the right to inspect barrels stored on the State Piers and order the immediate removal of bait which they deem to be in noncompliance with these regulations or otherwise offensive. Such an obligation is recognized as a condition of tenancy.
5. Bait barrels shall not be handled in such a manner as to result in spilling of bait or juices on any asphalt surface on state piers or surrounding state property.
6. Preparing or stringing of bait is permitted on the cement bulkhead cap on State Pier #9 in the Port of Newport. The bulkhead used for bait stringing or preparation shall be washed down immediately upon completion of the baiting.

FF. A section of the South-Facing Bulkhead located between the skiff dock and first backdown slip at State Pier #9, Port of Newport will be designated for short-term vessel use.

1. Short-term storage of gear in this area is restricted to twenty-four (24) hours. Authorized uses are loading and unloading pots and fishing gear, running out cables, minor welding, carpentry, outfitting, and engine repair, electrical equipment repair, net repairs (for no longer than four (4) hours), loading/unloading bait barrels: and fueling of vessels provided said fueling operations do not occur adjacent to welding or other potential fire hazards.

2. The operator of any vessel using the above described bulkhead service area shall ensure that the area employed is clean and in good repair prior to vacating the area.
3. Any vessel which does not possess a valid berth contract is prohibited from using the above described bulkhead service area without the prior written approval of the Division and payment of the transient rate for the use of the Pier.

GG. The Bulkhead located west of the western side of the Great Island Bridge:

1. The Bulkhead shall be used primarily as a loading/unloading zone for the commercial fishing vessels.
2. Power washing of Lobster Pots is allowed only in the designated area near the Great Island Bridge. Pots must be removed immediately upon completion of the cleaning so others may use the area. The area must be cleaned upon the completion of the work.
3. There is no storage of pots/ gear of any kind along the bulkhead. All pots/ gear must be removed within one (1) week. If any pots/gear are left for a period of longer than one week, they shall be deemed abandoned and promptly removed and disposed of by the Division.
4. There shall be no storage of pots/ gear in immediate loading areas along the bulkhead at any time for any reason.
5. There shall be no overnight tie-ups along the bulkhead without written permission from DEM staff with a permission pass posted in the wheelhouse window in plain sight.
6. The bulkhead may be used during storm conditions by Port of Galilee tenants sheltering their vessels from the wind without written permission. However, the captain must remain on board.

HH. The State shall have a lien upon a vessel for any monies due for fees which are in default, which lien may be enforced by sale of vessel in accordance with the procedure set forth in Chapter 34-35 of the R.I. Gen. Laws. The owner of the vessel, or his/her agent, shall be subject to penalties set forth in Chapter 46-22 of the R.I. Gen. Laws, and any amendments thereto. For purposes of R.I. Gen. Laws § 46-22-9(e), a failure to pay all fees when due shall effect an automatic withdrawal of any consent by the State of Rhode Island. In addition, the vessel, as an in rem obligation, and the owner of the vessel, as a personal obligation, shall be deemed jointly and severally liable for any financial obligations incurred by the vessel and owing to the Department, including, but not limited to, any berthing arrearage as well as any expense incurred in order to seize and remove the vessel from Port or sell the vessel at public auction.

- II. Piers are occupied at the sole risk of the users thereof.
- JJ. A berth contract for berthing space does not bestow the berth contract holder with the right to occupy land on the waterfront in any manner except as explicitly provided in these regulations.
- KK. Any use of activity which is not reasonably associated with or necessary to the berthing of commercial fishing vessels as these several terms are defined herein is expressly prohibited.
- LL. There shall be no modifications or alternations to the pier without prior approval of the Division.
- MM. A vessel's owner shall be responsible for any damage to port docks or facilities caused by his/her vessel or crew. Any damages to port docks or facilities may, at the discretion of the Division, be repaired by DEM at the vessel owner's expense. Such an expense shall constitute a debt that a vessel's owner must satisfy prior to being authorized to enter into a berth contract with the Department.
- NN. Abandoned or illegally berthed vessels will be considered trespassing, and removed from the Pier at the owner's expense.
- OO. Failure of the Division to enforce a violation or breach of any of the above regulations shall not affect the Division's right to pursue future enforcement actions for any subsequent violations.

## **1.9 Newport and Galilee Fishing Advisory Groups**

- A. Newport and Galilee Fishing Advisory Groups shall be established by the Director in order to advise and/or assist the Department relative to the preparation of a master plan and rules and regulations for the development and operation of State Pier #9, Port of Newport and the Port of Galilee. The Director or his/her designee shall call meetings of the advisory group only upon reasonable notice.
- B. Uses and/or activities which are or may be reasonably associated with and/or necessary to the berthing of commercial fishing vessels at the Port of Newport, State Pier #9 and State owned piers in Galilee which are not otherwise addressed herein may be permitted by the Director after opportunity for review by the Newport Fishing Advisory Group or Galilee Fishing Advisory Group. In permitting such uses and/or activities, the Director shall consider the following:
  - 1. Compatibility with other permitted uses and activities;
  - 2. The demand for the use or activity by tenant fishing vessels;



3. If a commercial service, the availability of said service elsewhere in the city of Newport or Narragansett and the impact of permitting it on other service vendors; and,
4. The impact of permitting arrangement on the price, availability and convenience of the service to tenant fishing vessels.

### **1.10 Newport Lobster Shack Cooperative**

- A. There shall be no dockside sale, barter, or trading of lobster or crab within the state facilities of the Port of Newport with the exception of the single, designated point of sale location called, "The Newport Lobster Shack." The point of sale location shall be operated and managed by the fishers directly by an association of berth holders known as the "Fishers in Newport."
- B. Participation in the lobster cooperative for sale of lobsters/crabs directly by fishers to the public is available to any berth holder possessing a valid endorsement issued pursuant to 250-RICR-90-00-2, RIDEM Marine Fishery Regulations / Commercial and Recreational Saltwater Fishing License Regulations.

### **1.11 Land Use Rules and Regulations**

- A. The Division in its sole discretion may designate any area of the Port as a "fire lane," including but not limited to the strip of land along the bulkhead. Such areas that are designated as a "fire lane," shall be properly signed and are required to be kept clear and unobstructed at all times. No gear storage, parking, standing vehicles, cutting boards, or bait barrels shall be allowed in a fire lane, except for the temporary loading and unloading equipment with the driver in line of sight of the vehicle.
- B. No person shall bring into the port area any refuse, ashes, waste oil, or garbage. In addition, there shall be no disposal of fish and fish parts on the bulkhead or in the waters of the State.
- C. Parking shall be allowed only in allocated and/or designated parking space. All no parking zones shall be signed and violators shall be tagged, towed, and/or fined.
- D. Camping and/or sleeping in vehicles at the facility is prohibited.
- E. Abandoned, unregistered or illegally parked vehicles will be towed at owner's expense.
- F. All rights-of-way shall be kept free and clear of obstruction by vehicles, gear, equipment, etc.

- G. All lessees shall obtain written approval from the Department of Environmental Management prior to undertaking activities.

### **1.12 State Pier #9 Newport Traffic Regulations**

- A. Parking shall be allowed only in allocated and/or designated parking spaces. Vehicles must have current parking stickers. Any vehicles which are found in areas designated "No Parking Zones" shall be tagged and fined as well as the vehicle(s) towed away at the owner's expense.
- B. All designated rights of way shall be kept free and clear of obstruction including but not limited to vehicles, gear, or equipment. A ten-foot zone around all electric power pedestals and all water hydrants are to be kept free and clear of obstruction including but not limited to vehicles, gear, or equipment.

### **1.13 Port of Galilee State Pier #3 Traffic Regulations**

- A. Parking allowed in designated areas only for motor vehicles with valid commercial fishing stickers issued by the DEM. Illegally parked motor vehicles may be towed at the expense of the vehicle's owner.
- B. No commercial fishing vessel shall remain tied to Pier #3 for longer than two weeks without prior written permission from the DEM.

### **1.14 Port of Galilee Southeast (S.E.) State Parking Lot (G)**

- A. This is a long-term general public parking area, and overflow parking area for fishermen and crew with valid parking permits issued by the Division.
- B. No campers, buses, trucks, or other vehicles over 8,800 lbs. GVRW shall be allowed in the lot.
- C. No camping is allowed.
- D. No sleeping in vehicles is allowed.
- E. The daily parking fee is ten dollars (\$10.00) per calendar day.
- F. Minimum fee for replacement of a lost ticket is one-hundred (\$100.00) dollars.
- G. Abandoned vehicles will be towed at the expense of the vehicle's owner.
- H. A seasonal parking pass is one hundred fifty (\$150.00) dollars for individuals with a valid Rhode Island driver's license and a Rhode Island registered vehicle. The pass is seventy-five dollars (\$75.00) for senior citizens 65 years of age or older with a valid Rhode Island driver's license and Rhode Island registered vehicle. A seasonal pass is two hundred fifty (\$250.00) dollars for all vehicles with out of state registrations. The pass is transferable to a second vehicle but will only be

honored once in any calendar day. The pass cannot be loaned to a vehicle to which the pass is not issued. No refunds will be given for unused passes.

- I. The issuance of a pass to a vehicle authorized the parking of the subject vehicle on a space available basis. Staff will make every reasonable effort to ensure that adequate parking spaces are available for all vehicles with annual parking pass, it is possible that enough parking spaces may not be available at times of peak demand including, but not limited to holiday periods.
- J. Any misuse of parking passes will result in the immediate confiscation of the pass by the Division.

### **1.15 Port of Galilee Lot 240 Commercial Fishermen Parking Area**

- A. Parking restricted to Commercial Fishermen and vessel crews with valid Commercial Fishing parking stickers.
- B. Parking stickers will be issued by the Department for vessel captains and crew. Vessel captains must designate crew members and submit a crew list to the Division to be issued valid commercial fishing parking stickers. Should the Division request proof of employment for crew members or captains, it will be the burden of the applicant to provide such documentation as deemed necessary by the Division.
- C. Unauthorized vehicles will be ticketed and/or towed at the expense of the vehicle's owner.

### **1.16 Port of Galilee West Bulkhead Area Traffic Regulations**

- A. Parking Area E: Parking for commercial fishermen, charter and "headboat" crews who are authorized berth holders and their customers.
- B. No sleeping in vehicles is allowed.
- C. Abandoned vehicles will be towed at the expense of the vehicle's owner.

### **1.17 General Rules and Regulations**

- A. No person shall commit any disorderly or indecent act within the limits of the Ports.
- B. No person shall refuse or neglect to obey the directions of any enforcement officer of any other authorized representative of the Department of Environmental Management.
- C. No person shall distribute or exhibit in the Port any printed or written material of a commercial nature without written permission of the Division. If official permission is granted, the distributor or exhibitor shall be responsible for removal of all

litter, which may result from such distribution. If the distributor or exhibitor fails to comply with the removal of all litter, then the litter will be removed by the DEM or their agents at the distributor's or exhibitor's expense.

- D. No person shall offer for sale in the Port any goods or services of a commercial nature without written permission of the Division.
- E. No person shall park or otherwise store any trailers on property owned or leased by the Division within the limits of the Port of Galilee or State Pier #9, Port of Newport without prior written permission by the Division.

### **1.18 Curfew**

With the exception of the owners and crew of commercial fishing vessels assigned berth contracts and/or those involved in loading/unloading or servicing vessels at the State owned facilities at the Port of Galilee or State Pier #9, Port of Newport, or those persons possessing a valid Saltwater Recreational Fishing License who are engaged in recreational fishing at the Port of Galilee or State Pier #9, all persons are prohibited from the State owned facilities including at the Port of Galilee or State Pier #9, at any time during the hours between sunset and sunrise.

### **1.19 Penalties**

- A. Any person who violates § 1.8 of this Part, in its entirety, of these Rules and Regulations, shall be subject to a civil violation and a fine not to exceed One Hundred (\$100.00) Dollars pursuant to R.I. Gen. Laws § 32-2-4, for each violation and for other such penalties as State law allows and may forfeit any and all rights to utilize the facility. Jurisdiction over these violations shall be with the traffic tribunal as specified under R.I. Gen. Laws § 42-17.10-1.
- B. Any person who violates portion of these rules or regulations set forth above in § 1.19 (A) of this Part shall be subject to a fine not to exceed Five Hundred (\$500.00) Dollars, or imprisoned not exceeding thirty (30) days, pursuant to R.I. Gen. Laws § 46-5-12, for each violation and for other such penalties as State law allows, and the forfeiture of any and all rights to utilize the facility.

### **1.20 Appeals**

- A. What review, if any, of the Division's determination to enter into or refuse to enter into a berth contract would be the subject of judicial as opposed to administrative review.
- B. In those rare instances in which a decision by the Division pursuant to these regulations would afford a party the opportunity to request a hearing before the Administrative Adjudication Division, the following procedures shall be employed: Any person who feels aggrieved and seeks an adjudicatory hearing in order to contest an enforcement action which alleges violation(s) of these rules and

regulations must file said request in writing with the clerk of Administrative Adjudication Division, 1 Capitol Hill, Fourth Floor, Providence, Rhode Island, 02908 within twenty (20) calendar days of receipt of the contested agency enforcement action.