

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

Division of Fish and Wildlife

Division of Law Enforcement

RULES AND REGULATIONS

**RULES AND REGULATIONS
GOVERNING THE SUSPENSION/REVOCAION OF COMMERCIAL MARINE
FISHERIES, SHELLFISH BUYER, LOBSTER DEALER, FINFISH DEALER, AND MULTI-
PURPOSE DEALER, LICENSES ISSUED PURSUANT TO TITLE 20 OF R.I.G.L."FISH
AND WILDLIFE".**



11/17/99

**Regulations Short Title:
Commercial License Suspension and Revocation Regulations**

AUTHORITY: **These regulations are adopted pursuant to Chapters 42-35, 42-17.1, 20-2, 20-4, 20-5, 20-6, and 20-7 of the Rhode Island General laws of 1956, as amended.**

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COMMERCIAL MARINE FISHERIES, SHELLFISH BUYER, LOBSTER DEALER, FINFISH
DEALER, AND MULTI-PURPOSE DEALER, LICENSES ISSUED PURSUANT TO TITLE 20 OF
R.I.G.L."FISH AND WILDLIFE".**

RULE 1. PURPOSE

The purpose of these rules and regulations is to govern the suspension/revocation of commercial marine fisheries, shellfish buyer, lobster dealer, Finfish dealer, and multi-purpose dealer licenses issued pursuant to Title 20 "Fish and Wildlife".

RULE 2. AUTHORITY

These rules and regulations are promulgated pursuant to Chapter 42-17. 1, Environmental Management, Sections 20-2, 20-4, 20-5, 20-6, and 20-7 20-1-4, 20-4-1.1, 20-6-24, and 20-7-5.1 in accordance with Chapter 42-35, Administrative Procedures Act, 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. 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.

RULE 5. SUPERSEDED RULES AND REGULATIONS

On the effective date of these Rules and Regulations, all previous Rules and Regulations, and any policies regarding the suspension and revocation of licenses pursuant to 42-35, 42-17.1, 20-2, 20-4, 20-5, 20-6, and 20-7 R.I.G.L. shall be superseded. However, any enforcement action taken by 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.

RULE 6. REGULATIONS

As follows:

1. Commercial Fishing License

Any individual who has violated the provisions of Title 20 "Fish and Wildlife", Chapters 1 "General Provisions", 2 "Licensing", 3 "Marine Fisheries Council", 4 "Commercial Fisheries", 4.1 "Menhaden Management Area", 5 "Fish Traps", 6 "Shellfish", 7 "Lobsters and other Crustaceans", 8.1 "Shellfish Grounds", and 10 "Aquaculture" of the Rhode Island General Laws or who has violated any rule or regulation adopted pursuant thereto, may have their Commercial Fishing License and the privileges to participate in the commercial fisheries, suspended or revoked as the Director or his/her designee in his/her discretion determines, for the time periods listed as follows:

- 1) First violation - up to thirty (30) days suspension;
- 2) Second violation - up to ninety (90) days suspension;
- 3) Third violation - up to three hundred and sixty-five days suspension; and
- 4) Fourth and successive violations - revocation.

No new license conferring said privileges shall issue during the period of suspension or revocation,

Any person aggrieved by an order of suspension or revocation, may appeal therefrom (in accordance with the Administrative Procedures Act Chapter 35 of Title 42 of the General Laws of Rhode Island and the Rules and Regulations adopted pursuant thereto) by requesting a hearing, in writing, within ten days of receipt of said order.

2. Fish Trap License

The Fish Trap License and the privilege to set, erect, or maintain fish traps in the public waters of this state, of any person who has violated the provisions of Title 20 "Fish and Wildlife", Chapters 1 "General Provisions", 2

"Licensing ", 3 "Marine Fisheries Council", 4 "Commercial Fisheries", 4.1 "Menhaden Management Area", 5 "Fish Traps", 6 "Shellfish", 7 "Lobsters and other Crustaceans", 8.1 "Shellfish Grounds", and 10 "Aquaculture" of the Rhode Island General Laws or who has violated any rule or regulation adopted in accordance with said title and chapters, may be suspended or revoked as the Director or his/her designee in his/her discretion determines, for the time periods listed as follows:

- 1) First violation - up to thirty (30) days suspension;
- 2) Second violation - up to ninety (90) days suspension;
- 3) Third violation - up to three hundred and sixty-five days suspension; and
- 4) Fourth and successive violations - revocation.

No new license conferring said privileges shall issue during the period of suspension or revocation,

Any person aggrieved by an order of suspension or revocation, may appeal therefrom (in accordance with the Administrative Procedures Act Chapter 35 of Title 42 of the General Laws of Rhode Island and the Rules and Regulations adopted pursuant thereto) by requesting a hearing, in writing, within ten days of receipt of said order.

The Department of Environmental Management may deny renewal or issuance of a fish trap license to any person, firm, association or corporation which is managed by or has as a principal, shareholder, creditor or employee, a person who was or is a, partner, manager, principal or shareholder of a fish trap business whose license at the time of application is subject to suspension, revocation or denial by the Department of Environmental Management.

3. Party and Charter Boat License

Any individual who has violated the provisions of: Title 20 "Fish and Wildlife", Chapters 1 "General Provisions", 2 "Licensing", 3 "Marine Fisheries Council", 4 "Commercial Fisheries", 4.1 "Menhaden Management Area", 5 "Fish Traps", 6 "Shellfish", 7 "Lobsters and other Crustaceans", 8.1 "Shellfish Grounds", 10 "Aquaculture"; Title 46 "Waters and Navigation", Chapters 22 "Regulation of Boats", 22.2 "Alcohol Boating Safety Act" of the Rhode Island General Laws or who has violated any rule or regulation adopted in pursuant thereto, may have their Party and Charter Boat License and the privileges conferred by said license suspended or revoked as the Director or his/her designee in his/her discretion determines, for the time periods listed as follows:

- 1) First violation - up to thirty (30) days suspension;
- 2) Second violation - up to ninety (90) days suspension;

- 3) Third violation - up to three hundred and sixty-five days suspension; and
- 4) Fourth and successive violations - revocation.

No new license conferring said privileges shall issue during the period of suspension or revocation.

Any person aggrieved by an order of suspension or revocation, may appeal therefrom (in accordance with the Administrative Procedures Act Chapter 35 of Title 42 of the General Laws of Rhode Island) by requesting a hearing, in writing, within ten days of receipt of said order.

4. Shellfish Buyer, Lobster Dealer, Finfish dealer, Multi-purpose Dealer

The license of any Shellfish Buyer, Lobster Dealer, Finfish dealer, Multi-purpose Dealer and the privilege to barter or trade in shellfish, lobster or Finfish in this state, of any person who has violated the provisions of Title 20 "Fish and Wildlife", Chapters 1 "General Provisions", 2 "Licensing", 3 "Marine Fisheries Council", 4 "Commercial Fisheries", 4.1 "Menhaden Management Area", 5 "Fish Traps", 6 "Shellfish", 7 "Lobsters and other Crustaceans", 8.1 "Shellfish Grounds", and 10 "Aquaculture" of the Rhode Island General Laws or who has violated any rule or regulation adopted in accordance with said title and chapters, may be suspended or revoked as the Director or his/her designee in his/her discretion determines, for the time periods listed as follows:

- 1) First violation - up to thirty (30) days suspension;
- 2) Second violation - up to ninety (90) days suspension;
- 3) Third violation - up to three hundred and sixty-five days suspension;
- 4) Fourth and successive violations - revocation

and no new license conferring said privileges shall issue during the period of suspension or revocation.

Any person aggrieved by an order of suspension or revocation, may appeal therefrom (in accordance with the Administrative Procedures Act Chapter 35 of Title 42 of the General Laws of Rhode Island) by requesting a hearing, in writing, within ten days of receipt of said order.

The Department of Environmental Management may deny renewal or issuance of a Shellfish Buyer, Lobster Dealer, Finfish dealer, Multi-purpose Dealer license to any person, firm, association or corporation which is managed by or has as a principal, shareholder, creditor or employee, a person who was or is a Shellfish Buyer, Lobster Dealer, Finfish dealer, Multi-purpose Dealer, partner, manager, principal or shareholder of a Shellfish Buyer, Lobster Dealer, Finfish Dealer, Multi-purpose Dealer whose license at the time of application is subject to suspension, revocation or denial by the Department of Environmental Management.