

**RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING**

AGENCY: Department of Environmental Management
DIVISION: Law Enforcement
RULE IDENTIFIER: 250-RICR-80-00-6; ERLID #: 597
REGULATION TITLE: Rules and Regulations Governing the Suspension/Revocation of
Commercial and Recreational Fishing Licenses
RULEMAKING ACTION: Direct Final

Direct Final: If no formal objection is received on or before Monday, July 30, 2018, Department of Environmental Management will file the amendment without opportunity for public comment.

TYPE OF FILING: Amendment

TIMETABLE FOR ACTION ON THE PROPOSED RULE:

Public Notice: Thursday, June 28, 2018.

End of Comment Period Date: Monday, July 30, 2018.

SUMMARY OF PROPOSED RULE: The purpose of these rules and regulations is to govern the suspension/revocation of commercial marine fisheries, shellfish dealer, lobster dealer, Finfish dealer, and multi-purpose dealer licenses as well as salt water fishing licenses issued pursuant to R.I. Gen. Laws Title 20.

COMMENTS INVITED:

All interested parties are invited to submit written or oral comments concerning the proposed regulations by **Monday, July 30, 2018**, to the addresses listed below.

ADDRESSES FOR PUBLIC COMMENT SUBMISSIONS:

Mailing Address: Jo-Anne Scorpio
Department of Environmental Management
Division of Law Enforcement
235 Promenade Street
Providence, RI 02908
Email Address: joanne.scorpio@dem.ri.gov

WHERE COMMENTS AND PROPOSED REGULATION MAY BE INSPECTED:

Mailing Address: Department of Environmental Management
Office of Customer and Technical Assistance, 2nd Floor
235 Promenade Street
Providence, RI 02908
(401) 222-6822

FOR FUTHER INFORMATION CONTACT:

Jo-Anne Scorpio
Department of Environmental Management
Division of Law Enforcement
235 Promenade Street
Providence, RI 02908
joanne.scorpio@dem.ri.gov

SUPPLEMENTARY INFORMATION:

Regulatory Analysis Summary and Supporting Documentation: The Department has determined that small businesses will not be adversely impacted by the proposed amendments.

Authority for This Rulemaking: R.I. Gen. Laws Chapters 42-17.1, 20-2, 20-2.1, 20-2.2, 20-4, 20-4.1, 20-5, 20-6, 20-7, 20-8.1, 20-10 and R.I. Gen. Laws §§ 20-1-4, 20-4-.1, 20-6-24, and 20-7-5.1 in accordance with R.I. Gen. Laws Chapter 42-35.

Regulatory Findings:

In the development of the proposed amendment consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

The Proposed Amendment: The purpose of this amendment is to combine the commercial and recreational fishing license regulations into a single regulation, to reformat the regulation in accordance with the RICR, to update outdated portions of the regulation, and to remove nonregulatory language.

The Department of Environmental Management proposes to amend 250-RICR-80-00-6. Electronic copies of the proposed rulemaking are available at the Secretary of State and DEM's website at the following web addresses:

<http://sos.ri.gov/ProposedRules/>

<http://www.dem.ri.gov/documents/regulations/index.php>

250-RICR-80-00-6

TITLE 250 - DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 80 - LAW ENFORCEMENT

SUBCHAPTER 00 - N/A

PART 6 - Rules and Regulations Governing the Commercial License Suspension/and Revocation of Commercial and Recreational Fishing Licenses.Regulations

6.1 Purpose

The purpose of these rules and regulations is to govern the suspension/revocation of commercial marine fisheries, shellfish buyerdealer, lobster dealer, Finfish dealer, and multi-purpose dealer licenses as well as salt water fishing licenses issued pursuant to R.I. Gen. Laws Title- 2020 "Fish and Wildlife".

6.2 Authority

These rules and regulations are promulgated pursuant to R.I. Gen. Laws Chapters 42-17.-1, -Environmental Management, Sections 20-2, 20-2.1, 20-2.2, 20-4, 20-4.1, 20-5, 20-6, and 20-7, 20-8.1, 20-10, and R.I. Gen. Laws §§ 20-1-4, 20-4-1.1, 20-6-24, and 20-7-5.1 in accordance with R.I. Gen. Laws Chapter 42-35.

6.3 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.

6.4 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.

6.5 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 R.I. Gen. Laws Chapters 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.

6.6 Regulations

A. Commercial Fishing License

1. Any individual who has violated the provisions of R.I. Gen. Laws Title Chapters 20-1, "Fish and Wildlife", Chapters 1 "General Provisions", 20-2 "Licensing", 20-2.1, 20-2.2, 20-3 "Marine Fisheries Council", 20-4 "Commercial Fisheries", 20-4.1 "Menhaden Management Area", 20-5 "Fish Traps", 20-6 "Shellfish", 20-7 "Lobsters and other Crustaceans", 20-8.1 "Shellfish Grounds", and 20-10; "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 unless otherwise addressed in R.I. Gen. Laws § 20-7-7:
 - a. First violation - up to thirty (30) days' suspension
 - b. Second violation - up to ninety (90) days' suspension
 - c. Third violation - up to three hundred and sixty-five (365) days' suspension and
 - d. Fourth and successive violations - revocation
2. No new license conferring said privileges shall be issued during the period of suspension or revocation.
3. Any person aggrieved by an order of suspension or revocation may appeal therefrom (in accordance with ~~the Administrative Procedures Act~~ R.I. Gen. Laws Chapter 35 of Title 4242-35 of the General Laws of Rhode Island and the rules and regulations adopted pursuant thereto) by requesting a hearing, in writing, within ~~ten~~ twenty days of receipt of said order.

B. Fish Trap License

1. 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 R.I. Gen. Laws Title Chapters 20 "Fish and Wildlife", Chapters 11 "General Provisions", 20-2 "Licensing", 20-3 "Marine Fisheries Council", 20-4 "Commercial Fisheries", 20-4.1 "Menhaden Management Area", 20-5 "Fish Traps", 20-6 "Shellfish", 20-7 "Lobsters

~~and other Crustaceans", 20-8.1 "Shellfish Grounds", and 20-10 "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:

- a. First violation - up to thirty (30) days' suspension
 - b. Second violation - up to ninety (90) days' suspension
 - c. Third violation - up to three hundred and sixty-five (365) days' suspension and
 - d. Fourth and successive violations - revocation
2. No new license conferring said privileges shall be issued during the period of suspension or revocation.
 3. Any person aggrieved by an order of suspension or revocation may appeal therefrom (in accordance with R.I. Gen. Laws Chapter 42-35 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~~ twenty days of receipt of said order.
 4. 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.

C. Party and Charter Boat License

1. Any individual who has violated the provisions of: R.I. Gen. Laws Chapters Title 20-"Fish and Wildlife", Chapters 1, "General Provisions", 20-2, 20-"Licensing", 3, 20-"Marine Fisheries Council", 4, 20-"Commercial Fisheries", 4.1, 20-"Menhaden Management Area", 5, "Fish Traps", 20-6, 20-"Shellfish", 7, 20-"Lobsters and other Crustaceans", 8.1, 20-"Shellfish Grounds", 10, "Aquaculture"; Title 46 "Waters and Navigation"; Chapters 22 and 46-"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:
 - a. First violation - up to thirty (30) days' suspension

- b. Second violation - up to ninety (90) days' suspension
 - c. Third violation - up to three hundred and sixty-five (365) days' suspension and
 - d. Fourth and successive violations - revocation
2. No new license conferring said privileges shall be issued during the period of suspension or revocation.
 3. Any person aggrieved by an order of suspension or revocation may appeal therefrom (in accordance with ~~the Administrative Procedures R.I. Gen. Laws Chapter 42-35 Act Chapter 35 of Title 42 of the General Laws of Rhode Island~~) by requesting a hearing, in writing, within ~~ten~~ twenty days of receipt of said order.
- D. Shellfish Buyer/Dealer, Lobster Dealer, Finfish Dealer, Multi-purpose Dealer
1. 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 ~~R.I. Gen. Laws Chapters Title 20 "Fish and Wildlife", Chapters -1 "General Provisions", 20-2 "Licensing", 20-3 "Marine Fisheries Council", 20-4 "Commercial Fisheries", 20-4.1 "Menhaden Management Area", 20-5 "Fish Traps", 20-6 "Shellfish", 20-7 "Lobsters and other Crustaceans", 20-8.1 "Shellfish Grounds", and 20-10 "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:
 - a. First violation - up to thirty (30) days' suspension;
 - b. Second violation - up to ninety (90) days' suspension;
 - c. Third violation - up to three hundred and sixty-five (365) days' suspension;
 - d. Fourth and successive violations - revocation
 2. ~~and n~~No new license conferring said privileges shall be issued during the period of suspension or revocation.
 3. Any person aggrieved by an order of suspension or revocation may appeal therefrom (in accordance with R.I. Gen. Laws Chapter 42-35) by requesting a hearing, in writing, within twenty days of receipt of said order.

~~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. 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.

E. Licenses Suspension-/Revocation of Recreational Salt Water Fishing License

1. ~~Any person who is convicted of violating any provision of Title 20 of the R. I. Gen. Laws Title 20s of the General Laws of Rhode Island, or any rule or regulation issued pursuant thereto, and who holds a license to fish, hunt, or trap or to engage in any other activity other than commercial marine fisheries, shellfish buyers, lobster dealers, Finfish dealers and multi-purpose dealers, pursuant to the provisions of Title 20, and its implementing regulations, may~~ shall have such license revoked by order of the Director, or his/her designee, for the period set forth in the following schedule:
 - a. ~~1st~~First violation - revocation for up to a period of ~~one (1)~~4 year
 - b. ~~Second~~2nd violation - revocation for up to a period of ~~2~~two (2) years
 - c. ~~Third~~3rd violation and succeeding violations - revocation for up to a period of ~~three (3)~~ years
2. No new license shall be issued to any person whose license has been revoked during the period set forth.
3. Any person aggrieved by an order of revocation may appeal therefrom in accordance with the provisions of the R.I. Gen. Laws Administrative Procedures Act, Chapter 35 of Title 4242-35 of the General Laws of Rhode Island.