

**STATE OF RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

**Division of Fish and Wildlife
Marine Fisheries**

PUBLIC NOTICE CONCERNING PROPOSED RULEMAKING

Pursuant to the provisions of Chapters 42-17.1 and 20-3 of the General Laws of Rhode Island as amended, and in accordance with the Administrative Procedures Act Chapter 42-35 of the R. I. General Laws, the Department of Environmental Management (DEM) proposes to repeal several Parts of the Rhode Island Marine Fisheries Regulations and adopt a new regulation in their place.

Public comment will be solicited on the following proposals:

- 1) **Repeal** of each of the following Parts of the Rhode Island Marine Fisheries Regulations:
 - a. Part IV – Shellfish;
 - b. Part V - Bay Scallops;
 - c. Part VI - Dredging for Shellfish;
 - d. Part VIII – Oyster Regulations;
 - e. Part IX - Shellfish Buyer’s License – Statutes;
 - f. Part XVIII - Shellfish Grounds.

- 2) **Adoption** of new regulation “Rhode Island Marine Fisheries Regulations – Shellfish”, that incorporates all regulatory and management aspects of the above named regulations proposed for repeal.

There are no regulatory or management changes with the proposed rulemaking. The purpose of the proposed changes are only to streamline, de-fragment, clarify, and to remove unnecessary duplicative, obsolete, and non-regulatory (e.g., statutory, programmatic) language.

Written comments concerning the proposed rulemaking may be submitted to the Division of Fish and Wildlife, Marine Fisheries section, 3 Fort Wetherill Road, Jamestown, RI 02835, Attention: Peter Duhamel. Written comments must be received within thirty (30) days of this notice (i.e., no later than 4:00 P.M., July 17, 2014) to be entered into the public record. The Department shall consider fully all properly submitted written and oral submissions concerning the proposed rulemaking.

Upon adoption of a rulemaking, the Department, if requested to do so by an interested person, either prior to adoption or within thirty (30) days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

A public hearing concerning the proposed rulemaking will be held **only** if requested, consistent with the requirements of Chapter 42-35 of the R. I. General Laws (i.e., if requested by twenty-five (25) persons, or by a governmental subdivision or agency, or by an association having not

less than twenty-five (25) members). Such request must be received within thirty (30) days of this notice (i.e., no later than 4:00 P.M, July 17, 2014).

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.

A copy of the proposed rulemaking will be available for review from June 17 through July 17, 2014 at the DEM Marine Fisheries office located at 3 Fort Wetherill Road, Jamestown, RI 02835; and also online at the Marine Fisheries website at the following web address: <http://www.dem.ri.gov/programs/bnatres/fishwild/pn012214.htm>.

Date Posted: 06/17/2014



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

~~BUREAU OF NATURAL RESOURCES
FISH AND WILDLIFE
&
LAW ENFORCEMENT~~

~~RHODE ISLAND MARINE FISHERIES STATUTES AND REGULATIONS~~

~~Part IX Shellfish Buyer's License - Statutes~~



~~November 7, 2003~~

~~**AUTHORITY:** These regulations are adopted pursuant to Chapters 42-17.1, 42-17.6, 20-1-2, 20-1-4, 20-3-2 thru 20-3-6, 20-4 thru 20-10, and in accordance with 42-35, of the Rhode Island General Laws of 1956, as amended.~~

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

BUREAU OF NATURAL RESOURCES

FISH AND WILDLIFE
&
LAW ENFORCEMENT

**RHODE ISLAND MARINE FISHERIES
STATUTES AND REGULATIONS**

TABLE OF CONTENTS

RULE #1 PURPOSE iii

RULE #2 AUTHORITY iii

RULE #3 ADMINISTRATIVE FINDINGS iii

RULE #4 APPLICATION iii

RULE #5 REGULATIONS Part IX, p1

RULE #6 SEVERABILITY iii

RULE #7 SUPERSEDED RULES AND REGULATIONS iii

RULE #8 EFFECTIVE DATE PAGE iv

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

BUREAU OF NATURAL RESOURCES

FISH AND WILDLIFE & LAW ENFORCEMENT

**RHODE ISLAND MARINE FISHERIES
STATUTES AND REGULATIONS**

PURPOSE

~~The purpose of these rules and regulations is to supplement and simplify and/or clarify existing regulations in order to more efficiently manage the marine resources of Rhode Island.~~

AUTHORITY

~~These rules and regulations are promulgated pursuant to Chapter 42-17.1, 42-17.6, 20-1-2, 20-1-4, 20-3-2 thru 20-3-6, 20-4 thru 20-10 and in accordance with Chapter 42-35, Administrative Procedures, of the General Laws of 1956, as amended.~~

ADMINISTRATIVE FINDINGS

~~Rules and regulations are based upon the need to modify existing regulations (RIGL 20-3-2 through 20-3-6).~~

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.~~

DEFINITIONS

~~See Rhode Island Marine Statutes and Regulations, Part I, §1.3.~~

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.~~

SUPERSEDED RULES AND REGULATIONS (#1844)

~~—On the effective date of these rules and regulations, all previous rules and regulations, and any policies regarding the administration and enforcement of Part IX (#1844) 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.~~

Rule 8. ~~EFFECTIVE DATE~~

~~The foregoing rules and regulations Rhode Island Marine Statutes and Regulations, after due notice, are hereby adopted and filed with the Secretary of State this 7th day of November, 2003 to become effective 20 days from filing, unless otherwise indicated, in accordance with the provisions of Chapters 20-1-2, 20-1-4, 20-3-2 through 20-3-6, 20-4 through 20-10, 42-35, 42-17.1, 42-17.6 of the General Laws of Rhode Island of 1956, as amended.~~

Director

Notice Given: 09/12/03

Public Hearing: 10/14/03

Filing date: 11/07/03

Effective date: 11/27/03

November 7, 2003

Honorable Matthew A. Brown
Secretary of State
217 State House
Providence, RI 02907

Dear Mr. Secretary:

~~Pursuant to the provisions of Chapters 42-17.1 and 20-3, and in accordance with Sections 42-35 of the Administrative Procedures Act of the General Laws of Rhode Island, 1956 as amended, the Department of Environmental Management has adopted regulations.~~

~~The purpose of this filing is to cite the appropriate AAD rules for appeal.~~

~~This regulation becomes effective twenty (20) days from filing.~~

Sincerely,

John A. Stolgitis,
Chief

~~R.I. Marine Fisheries Statutes and Regulations~~
~~PART IX -- SHELLFISH BUYER'S LICENSE -- STATUTES~~

~~9.1 Shellfish Buyer's License -- The annual fee for a shellfish buyer's license shall be two hundred dollars (\$200). (RIGL 20-2-23) (Penalty -- RIGL 20-6-24)~~

~~9.2 License for Shellfish Buyers -- Suspension or Revocation~~

~~(a) No person, partnership, firm, association, or corporation shall barter or trade in shellfish taken by persons licensed under this Chapter unless a license so to do has been obtained from the Director of Environmental Management.~~

~~(b) Any licensee operating under the provisions of this Section shall purchase shellfish from licensed persons only and shall purchase or possess only those shellfish legally taken or possessed.~~

~~(c) The Director shall issue and enforce rules and regulations, and orders governing bartering and trading in shellfish by licensed fishers of shellfish, licensed shellfish buyers and other persons, partnerships, firms, associations, or corporations.~~

~~(d) The Director may suspend, revoke, or deny the license of a shellfish buyer or fisher of shellfish for the violation of any provision of this Title or the rules, regulations, or orders adopted or issued pursuant thereto.~~

~~(e) Any person aggrieved by the decision of the Director may appeal the decision pursuant to the provisions of the Administrative Procedures Act, Chapter 35 of Title 42.~~

~~(f) The Director of the Department of Environmental Management and his or her agents are authorized to enter and inspect the business premises, appurtenant structures, vehicles, or vessels of any shellfish buyer and to inspect records maintained by a shellfish buyer for the purpose of determining compliance with the provisions of this Section and any rules, regulations, or orders issued thereunder, and no person shall interfere with or obstruct the entrance or inspection of the Director or his or her agents of those business premises, appurtenant structures, vehicles, or vessels.~~

~~(g) Any violation of the provisions of this Section or any rule, regulation, or order adopted hereunder shall be subject to the penalties prescribed in 20-1-16.~~

~~(RIGL 20-6-24)~~

~~9.3 Administrative Hearings Pursuant to R.I. Gen. Laws § 42-17.7-9~~

~~(a) Any person who 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, 235 Promenade Street, Providence, Rhode Island~~

~~02908 within twenty (20) calendar days of receipt of the contested agency enforcement action.~~

~~(b) Any person who seeks an adjudicatory hearing relative to license and permits appeals arising under these rules and regulations must file said request in writing with the clerk of Administrative Adjudication Division, 235 Promenade Street, Providence, Rhode Island 02908 within thirty (30) calendar days of receipt of the contested agency action.~~

~~[RIMF REGULATION]~~