

Newport Fishing Port Operations Regulations

July 1, 1999

**State of Rhode Island
Department of Environmental Management
Division of Coastal Resources**

1. Use of Piers

1. This facility shall be used exclusively for the berthing of commercial fishing vessels and activities reasonably associated with and necessary thereto. Such activities shall include:
 - A. Vehicle parking for captains and crewmen in assigned areas only.
 - B. Loading and offloading fishing gear and equipment in designated areas.
 - C. Access by vendors of services and repairs to fishing vessels, which access shall be for limited periods.
 - D. Storage of fishing nets in assigned net storage areas.
 - E. Storage of lobster pots between 10/15 and 6/15.

Said activities shall not include:

- A. Storage of lobster pots between 6/16 and 10/14.
 - B. Offloading of fish, lobsters or shellfish except by berth permit holders.
 - C. Handling, processing, storage and formal wholesale or retail sale of fish, lobsters and shellfish.
 - D. Construction or emplacement of any structure or building by fishermen and vendors of services to the fishing fleet.
 - E. Storage of boat trailers on the Pier.
 - F. Residential use and/or commercial uses other than those provided for under 1.A-E.
2. No boat shall berth at state owned facilities at the Port of Newport without a berth permit or a lease. Initial applications shall be made in duplicate by the boat owner to the State of Rhode Island Department of Environmental Management as early as possible. Dockage space will be assigned in order of receipt of applications. However, because of the particular length of a boat with relations to the Pier space available or other pertinent factors, it may sometimes be necessary to deviate from this rule.
 3. A boat owner whose application has been approved and has been so notified shall pay the required dockage fee and any arrearages owed prior to the issuance of a berthing permit. If such payment is not received within 10 days after approval of application, the State may deem the approval withdrawn and consider other applications.
 4. A boat owner who holds a berthing permit and who is not in arrears on any payments to the State, shall have the option to renew this permit for the following year. However, if such option is not exercised prior to June 30th, the space will be assigned to the next eligible applicant on the waiting list. Payment of year round dockage fees must be made no later than July 15th. Non-payment of fees after the due date shall be considered cause for revocation of berth permits. Berthholders who have their permits revoked lose all seniority rights 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 plus any interest due.

5. When a vessel is sold, berthing rights shall not be transferred with the vessel. The berth right may remain with the permit holder provided that a new vessel is purchased within one year and all fees remain paid in full.
6. When a holder of a berthing right dies, the berthing right shall become the right of his/her immediate family with no loss in the seniority of the permit. Berthing rights may not be transferred out of the immediate family or sold.
7. The fee for a berth is dependent upon the length of the boat. For this purpose the length shall be determined by measuring the overall length of the boat (including pulpit). Boat lengths involving fractions of a foot or six inches or more shall be increased to the next higher foot. Fractions fewer than six inches shall be ignored.
8. The berthing permit fee schedule is:
 - A. The minimum rate for all vessels is based on 20-foot boats. All vessels less than 20 feet in length shall be charged at the 20 foot minimum.
 - B. Berth permit shall cost \$40.00 per foot of vessel length.
 - C. Transient vessels are all vessels without a berth permit. The daily rate for transient vessels is \$40.00 per day plus \$.50 per foot for all footage over 40 feet.
9. Permit criteria by boat class:
 - A. Lobster boats
 1. Permits will be issued only for those vessels which are and will be actively engaged as commercial lobster boats during the year for which the permit is required.
 2. Applications for permits must be holders of a commercial lobster fishing license or a multipurpose license.
 3. Applicants for permits must demonstrate that they will be engaged in commercial lobster fishing by certifying either:
 - A. That the vessel was used for commercial lobster fishing on at least 100 days of the previous year; and
 - B. That the vessel is new or was purchased within six months, and that the applicant has the intent and ability to comply with 1, 2 and 3A.
 - B. Draggers
 1. Permits will be issued only for those vessels which are and will be actively engaged as commercial draggers during the year for which the permit is required.
 2. Applicants for permits must demonstrate that they will be engaged in commercial fishing by certifying either:
 - A. That the vessel was used for commercial fishing on at least 100 days of the previous year; or
 - B. That the vessel is new or was purchased within six months, and that the applicant has the intent and ability to comply with 1, 2 and 3A.

10. A priority will be given in granting of permits to vessels whose owners are Rhode Island residents or business corporations incorporated in the State of Rhode Island.
 11. Boat owners shall promptly notify the State of any change in home or business address or change in boat name, identification or size, or of any information contained in a previously filed corporation form.
 12. A permittee shall notify the State, in advance, if a berth will not be used for a period of two weeks or longer.
 13. All fees due shall be paid in full in advance of the issuance of the permit.
 14. No refund will be made for any unused dockage if a permittee vacates his berth. If a permittee relinquishes his berthing permit, a refund may be applied for. Said refund shall be prorated on a quarterly basis for fees paid in advance. There shall be no refunds for periods less than a quarter.
 15. The State shall have a right to terminate a permit for any valid cause, including, but not limited to, non-payment of fees when due, and violations of these regulations.
 16. Lobster pots may be stored on the Pier from 10/15 through 6/15. All stored gear must be kept neat and stored in an orderly fashion. Access to Piers and vessels berthed along the bulkhead must be maintained at all times. DEM personnel may request the removal or relocation of gear to allow for construction projects etc. on the Pier.
 17. A berth assignment list shall be maintained by that State Pier Superintendent. Berths may be reallocated by the State from time to time in order to make more efficient use of the Piers.
 18. No gear, barrels, equipment or other materials shall be allowed to obstruct passage to the Piers. Passage over the Piers shall remain unobstructed at all times. The center 3' of the "L" Pier must be kept clean at all times.
- 18b. Storage of bait
- A. Storage of unrefrigerated bait must be in sound (no leaks) plastic barrels with tight fitting lids.
 - B. Barrels must be covered at all times.
 - C. All unrefrigerated bait must be salted down; one pound salt to ten pounds skate, one to six pounds for herring or porgie, in alternating layers of fish and salt.
 - D. Barrels must be scrubbed out with salt water and a biodegradable cleaner before reuse.
 - E. Salted bait must be used within a one-month period in winter, two weeks in summer.
 - F. Maggot infested bait must be removed from the Pier and properly disposed of immediately.

- G. Coastal Resources staff has the right to inspect barrels stored on Pier 9 and order the immediate removal of offending barrels of bait. This is recognized as a condition of tenancy.
- H. The Division may terminate the right of repeat offenders of these rules to store unrefrigerated bait on the Pier.
19. A permit for berthing space does not include the right to occupy land on the waterfront in any manner except as otherwise authorized in these regulations.
 20. The State shall have a lien upon the boat for any monies due it for fees which are in default, which lien may be enforced by sale of boat in accordance with the general laws of 1956 and any amendments thereto. The owner of the boat, or his agent shall be subject to the penalties set forth in Title 46, Chapter 22, of the General Laws of 1956, and any amendments thereto. For purposes of Section 9(E) of said Chapter, a failure to pay all fees when due shall effect an automatic withdrawal of any consent by the State of Rhode Island.
 21. In the event a permit holder wishes to substitute a boat, the permittee shall give the State full particulars and request and receive prior approval to substitute a new boat.
 22. Piers are occupied at the sole risk of the users thereof.
 23. Dumping of garbage, oil, refuse, fish offal, or other substances in public tidewaters of the State is prohibited by State and Federal Law. Waste crankcase oil from the fishing vessels shall be disposed of in the designated waste oil collection tanks. The collection areas shall be kept clean and oil spills shall be immediately reported to the State Pier Superintendent.
 24. The State reserves the right to designate "firelanes" which shall be signed and kept clear and unobstructed at all times. No gear, storage, parking, standing vehicles, cutting boards, or bait barrels shall be allowed in designated firelanes, except for loading and unloading equipment with the driver in line of sight of the vehicle.
 25. No person shall bring into the port area any refuse, ashes, waste oil, garbage, or other materials for the purpose of disposal within said area. There shall be no disposal of fish or fish parts on the bulkhead or in the waters of the State.
 26. Parking shall be allowed only in allocated and/or designated parking spaces. Vehicles must have a current Pier 9 parking sticker. All "No Parking Zones" shall be signed and violators shall be tagged and towed and fined.
 27. All designated rights of way shall be kept free and clear of obstruction by vehicles, gear, equipment, etc.
 28. No person shall use profane or indecent language or in any manner annoy another person or commit any disorderly or indecent act within the limits of the Pier.

29. No person shall distribute or exhibit in the Port any printed or written material of a commercial nature without written permission of the State Pier Superintendent. When official permission is granted, the distributor or exhibitor shall be responsible for removal of all litter, which may result from such distribution.
30. No person shall offer for sale at the Pier any goods or services of a commercial nature without written permission of the State Pier Superintendent.
31. No camping or sleeping in vehicles is allowed.
32. Abandoned or illegally parked vehicles will be towed at the owner's expense.
33. Abandoned or illegally berthed vessels will be removed from the State Pier at the owner's expense.
34. A section of the bulkhead shall be designated for short-term vessel service. It shall be located on the Northwest corner of the Main Pier. Use of this area shall be for immediate loading/unloading only. The captain shall remain in board; any tie-up over 4 hours will require written permission of the Pier Superintendent. Allowed uses are loading and unloading pots and fishing gear, running out cables, minor welding, carpentry, outfitting, and engine repair, electrical equipment repair, net repairs (4 hr.), loading/unloading bait barrels; and fueling of vessels provided said fueling operations do not occur adjacent to welding or other potential fire hazards.
Each vessel is responsible for cleanup after its use of the bulkhead service area. Non-tenant vessels will be charged at the transient rate for the use of the Pier.
35. The Department shall allow private sector vendors of services related to the fishing fleet equal and non-exclusive access to the Pier and bulkhead while in the act of servicing tenant vessels. These vendors shall be licensed by the Department and shall provide their services in accordance with the Port operating rules and regulations. License fees shall be in conformance with the established rate for the use of Pier and bulkhead space.
36. The State Pier Superintendent shall have the right to assign berths to vessels from the waiting list based upon seniority on the waiting list but taking into consideration 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.
37. A Newport Fishing Advisory Group shall be established by the Director of the DEM to advise and/or assist the Department on the preparation of a Master plan and rules and regulations for the development and operation of this facility. Meetings of the advisory group shall be called only upon reasonable notice by the Director of his/her designee.
38. Uses and/or activities which are or may be reasonably associated with and/or necessary to the berthing of commercial fishing vessels which are not otherwise addressed herein may be permitted by the Director after opportunity for review by the advisory committee. 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 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.

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.

39. Curfew with the exception of the owners and crew of commercial fishing vessels assigned berthing permits and/or those involved in loading/unloading or servicing vessels at the State owned facilities at the Port of Newport, all persons are prohibited from the State owned facilities at the Port of Newport at any time during the hours between sunset and sunrise.

40. Penalties

A. Applicable penalties-the following penalties shall apply to violations of these regulations:

1. Administrative processing which may result in suspension and/or revocation of any and all of the violators berthing permits at the State facility and
2. Administrative enforcement proceeding which may impose a maximum fine of \$500.00, 90 days imprisonment of both per violation per day.

41. Appeals

A. General-The procedure for appeal of departmental decisions pursuant to the provisions of Section 42-35 of RI General Laws are contained in both "Administrative Rules of Practice for the Department of Environmental Management Administrative Adjudication Division for Environmental Matters" and the "Administrative Rules of Practice and Procedure for the Department of Environmental Management".

B. Any person aggrieved by the enforcement of these rules may appeal to the Director for review by filing an appeal with DEM/Administrative adjudication.

1. Filing of appeal - all appeals shall be in writing and shall be filed with and received by DEM/Administrative Adjudication within (30) days after the effective date of the enforcement action.

2. Contents of appeal - every appeal shall contain a detailed basis upon which the appeal is taken and the name and address of the applicant.

C. Appeal procedure for notice of violations, suspensions or revocations - any person who has received a notice alleging violations of these regulations and the institution of an administrative penalty processing or whose appeal has been suspended or revoked, may appeal to the Director for review of the decision on which the suspension or revocation is based by filing an appeal with DEM/Administrative Adjudication.

1. Filing of appeal - all appeals shall be in writing and shall be filed with and received by DEM/Administrative Adjudication within (10) days after the date of the receipt of the subject notice, revocation or suspension.

2. Contents of appeal - every appeal shall contain a detailed basis upon which the appeal is taken.