250-RICR-60-00-4

TITLE 250 - DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 60 - FISH AND WILDLIFE

SUBCHAPTER 00 - N/A

PART 4 - Rules and Regulations Governing Collector's Permits

4.1 Purpose

A. The purpose of these rules and regulations is to establish standards for the issuance of collector's permits for the taking, handling, and/or possession of any terrestrial, avian, freshwater or diadromous species of wild animal for the purpose of scientific study or management of wildlife populations, carrying out scientific experiments and cultivation projects for which the Director has authority pursuant to R.I. Gen. Laws § 20-1-18 and Title 20.

B. Collector's permits for the taking handling, and/or possession of any marine species from within marine waters shall be issued by the DEM Division of Marine Fisheries in accordance with Part 90-00-28 of this Title.

4.2 Authority

A. These rules and regulations are promulgated pursuant to authority vested in the Director of the Department of Environmental Management under R.I. Gen. Laws §§ 20-1-18, 20-1-21, and 20-1-22, and Chapters 42-17.1 and 42-17.6 in accordance with the requirements of the Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35.

4.3 Administrative Findings

A. The Division of Fish & Wildlife of the Rhode Island Department of Environmental Management is authorized to issue permits for the collection, taking, handling, and or possession of any terrestrial, avian, freshwater or diadromous species of wild animal for purposes of scientific study or management, carrying out scientific experiments, or cultivation projects. Certain wild species populations may be at risk of unregulated collecting and some species, when handled, may pose risk to humans in the form of physical harm or risk of disease exposure. Therefore it is necessary to ensure that those persons who wish to collect, take, handle, or possess wild species for purposes of scientific study, education, or management possess the appropriate and adequate knowledge, skills, and intent to ensure that the species populations as well as human health and safety will not be compromised.

4.4 Repealed

4.5 Definitions

A. Wherever used in these Rules and Regulations the following terms shall be construed as follows:

1. “Agent” means any person who acts or has authority to act on behalf of another or one who transacts business for another.

2. “Animal” or “animals” means every living creature including but not limited to, any species of mammal, bird, fish, reptile, amphibian, insect, aquatic organisms, or other animal except a human being.

3. “Avian species” means any species of bird.

4. “Department” or “DEM” means the Rhode Island Department of Environmental Management.

5. “Diadromous fish” means any fish species that migrates between fresh and saltwater to complete its life history.

6. “Director” means the Director of the Rhode Island Department of Environmental Management, or his/her duly authorized agent or agents.

7. “Division” means the Division of Fish & Wildlife of the Rhode Island Department of Environmental Management.

8. “Division of Law Enforcement” means the Chief of the DEM Division of Law Enforcement, the deputy chiefs and all officers of the Division of Law Enforcement.

9. “Endangered species” means any animal so declared by the United States secretaries of the interior or commerce under the provisions of the Federal Endangered Species Conservation Act or any animal so declared by the Director of the Rhode Island Department of Environmental Management pursuant to R.I. Gen. Laws Chapter 42-34.

10. “Fish and Wildlife” or "F&W" means the Department of Environmental Management’s Division of Fish and Wildlife.

11. "Freshwater" means those waters of the State in which the natural level of salinity is equal to or less than one (1) part per thousand, 95 percent or more of the time.

12. “Management of wildlife” or “wildlife management” for the purpose of these regulations means the manipulation of habitat or populations that are done to meet some specified human goal.

13. "Marine species" means any animal species found in the marine waters of Rhode Island, including but not limited to finfish, shellfish, crustaceans, and squid.

14. "Marine waters of Rhode Island" means all tidal and territorial waters of the State out to three (3) nautical miles from the coastline.

15. “Person” means any individual, partnership, firm, organization, corporation, association, business trust, estate, municipality, company, government entity, including but not limited to educational and research institutions, zoological gardens, schools, colleges, universities, laboratories, or other legal entity.

16. “Possession” means the exercise of dominion or control over the animal commencing at the time at which a decision is made not to return the animal to the immediate vicinity from which it was taken. The decision must be made at the first practical opportunity.

17. “Suppressed rifle,” “suppressor,” “sound suppressor” or “silencer” means a device attached to or part of the barrel of a firearm or air gun which reduces the amount of noise and visible muzzle flash generated by firing of the firearm.

18. “Take” or “taking” means to take possession of, to capture, procure, or to harvest, kill, or euthanize.

19. “Terrestrial” means any species that lives predominantly on land.

20. “Translocation” means the transport and release of animals from one location to another.

4.6 Regulations

A. The Division may issue Collector’s Permits, a.k.a. Scientific Collector’s Permits, to persons meeting the criteria set forth in these regulations to take, handle, and/or possess any species of terrestrial, avian, freshwater, or diadromous wild animal of any size, age, and number as may be appropriate for the purpose of study or management of wildlife populations, to carry out scientific experiments and cultivation projects for which the Director has responsibility.

B. A valid and current scientific collector’s permit issued by the Division is required to take, handle, or possess, for scientific, educational, management, or cultivation projects, studies or purposes, terrestrial, avian, freshwater, or diadromous wild animal, during seasons not permitted by regulations governing holders of a valid hunting, fishing, or trapping license or other permit or license issued by the Department.

1. Exemption for Department Personnel:

a. Department personnel shall be exempt from the requirement to obtain a Scientific Collector's Permit and are hereby authorized to take, handle, and possess terrestrial, avian, freshwater, or diadromous wild animal of any size, age, or number, provided such activities are performed:

i. Within the scope of their official duties.

ii. For purposes including, but not limited to, scientific research, stock assessment, habitat monitoring, fisheries management, enforcement activities, or other Department-authorized programs.

iii. In accordance with all other applicable local, state, or federal statues, regulations, or ordinances.

b. This exemption shall terminate upon separation from Department employment or revocation of authorization.

C. Applicants for a scientific collector's permit shall complete and submit an application on forms provided by the Division.

D. All permit applications shall require the following information:

1. The applicant's name, address, and daytime telephone number;

2. The applicant's date of birth;

3. If the application is a corporation, partnership, business, commercial entity, club, organization, or association, whether public or private, the name, address, and telephone number of its' president, director, or principal officer;

4. The applicant's signature; and,

5. Any other information as deemed relevant by the Division.

E. The Division shall issue four categories of collector's permits:

1. Type 1 Collector's Permit: Research and Education. To permit persons whom the Division deems to be qualified to competently and capably conduct research or educational programs and who are not engaged in scientific collecting for monetary gain based upon the sale or transfer of collected species. To qualify for a Type 1 Permit, applicants must demonstrate to the Division's satisfaction one or more of the following:

a. They possess adequate qualifications, which may include a Bachelor's Degree in biological science, fisheries science, wildlife,

zoology, oceanography, herpetology, or other related field, as it relates to the specific request described in their application and are conducting bona-fide biological research that requires animal specimens or are pursuing studies toward an advanced degree and have a demonstrable need to collect animal specimens to complete such a degree. The Division will also consider professional experience, certification by a professional society or recommendation by acknowledged authorities in the appropriate field when determining evaluating an applicant's qualifications for the issuance of a Collector's Permit.

b. They are associated with or employed by a museum, college or university, non-profit organization or other accredited institution or educational facility and are academically and/or professionally qualified as so deemed by the Division and have a valid need to take, handle or possess animal specimens for science or educational purposes subject to Institutional Animal Care and Use Committee (IACUC) restrictions as applicable.

2. Type 2 Collector's Permit: Governmental. To permit persons employed by, or acting as agents of, a federal or state agency other than the DEM personnel to engage in the taking, handling, and/or possessing of wild animals for scientific studies or management as part of their duties.

3. Type 3 Collector's Permit: Consulting. To permit persons to engage in taking, handling, and/or possessing wild animals for scientific studies or experiment and who are engaged in private consulting for profit. To qualify for a Type 3 Permit, applicants must demonstrate to the Division's satisfaction that they possess at a minimum a Bachelor's Degree in biological science, fisheries science, wildlife, zoology, oceanography, herpetology, or other related field as it relates to the specific request described in their application. The Division will consider professional experience, certification by a professional society or recommendation by acknowledged authorities in the appropriate field when evaluating qualifications.

4. Type 4 Collector's Permit: Municipal Deer Management Permit. The Division may authorize a permit to any municipality to take deer at a specified time and location using any method consistent with professional wildlife management principals when the applicant demonstrates to the satisfaction of the Division the existence of a severe nuisance or ecological damage within the municipality. Any such municipal applicant shall submit to the Division for review and approval, a management plan that describes the extent and degree of the nuisance or ecological damage, the proposed method(s) of taking and provide any other information required by the Division, including but not limited to the following:

a. Quantitative description of extent and degree of nuisance damage (e.g., road kills, property or agricultural crops) or ecological damage.

b. History and duration of deer problem including identification of any control options previously implemented and their effect on resolving the problem. Describe all hunting programs that have been employed within the municipality and/or on the subject property and its results, including level of effort, numbers of hunters and hunter success.

c. Alternative options considered and reasons why other options were not selected.

d. Other actions to discourage future deer problems (e.g., discouraging recreational feeding of deer or modifying local ordinances that restrict hunting or shooting for deer management purposes).

e. Deer population objective and expected number of deer to be removed.

f. A signed and dated letter from the governing body endorsing the application.

g. Map and description of the area subject to the proposed deer management plan showing property boundaries and owners.

h. A list of all abutting landowners that will be notified prior to implementing the plan.

i. Proposed method and procedures for deer removals.

j. Identity of the specific employees or designated agent that will be conducting the removal efforts.

k. Deer removals may only be conducted between September 1 and March 31. Applicants shall include a proposed range of days that deer may be removed. The DEM Wildlife and Law Enforcement Divisions and local police departments must be provided with written notice of at least forty-eight (48) hours prior to specific times during which deer removals are to be initiated.

l. If deer are being removed from private land, prior, written permission is required to be obtained by the municipality or designated agent pursuant to the requirements of R.I. Gen. Laws § 20-15-3.

m. Specific equipment to be used, (e.g., type of rifle and ammunition, crossbows, spotlights, suppressors, bait, night vision, or nets, traps).

n. Specific procedures to be used (e.g., shooting over bait, use of spotlights or night vision equipment, shooting from tree stands or vehicles, etc.).

o. Disposition of deer removed (meat, unused carcass parts and entrails).

p. Precautions exercised to maximize safety of removal program (e.g., local law enforcement review and oversight, selection criteria of shooting locations).

q. Qualifications, special skills, certifications, license, and work experience of those implementing the plan.

r. Description of comprehensive liability insurance coverage.

s. Proposed budget, with supporting documentation (i.e. cost estimates), to ensure the budget is sufficient to fully implement the plan.

t. If the shooting of deer is proposed to implement a deer management plan, each shooter must meet all of the following requirements:

(1) Provide DEM with documentation of past experiences relating to firearms use or training, hunter safety, shooting clinics or competitions, deer hunting experience, and deer removal activities.

(2) Provide documentation of successfully completing a Rhode Island Hunter Education Education/Firearms Safety course (firearms or archery) or an equivalent course from another state.

(3) Provide proof of possession of all Federal/State permits, if required.

(4) The shooter's background check cannot reveal that the shooter has been found in violation or assessed a criminal or administrative penalty by a judicial or administrative tribunal for a violation of any state or federal hunting or fishing statute or regulation within five (5) years from the date of application, or has ever been convicted of any crime that is

defined as a felony offense in the jurisdiction in which the conviction is rendered.

(5) Written status reports (monthly) must be submitted to DEM by the permittee that identify status of the program, number of deer removed, persons receiving donated venison, evaluation of objectives and program effectiveness, expenses associated with removals, summary of biological data collected from harvested deer, quantity of donated venison and timetable for future efforts.

F. Collector's Permit applications must be signed by the permittee. As a condition of signing the application, the permittee agrees:

1. To comply with all relevant provisions of the law including but not limited to R. I. Gen. Laws Titles 20 and 11, and all stipulated conditions and restrictions of the permit;

2. To hold the state harmless for any injury, damage, or disease caused by any animal handled, captured, taken, transported, or possessed under the permit, to include treatment for and prevention of such and to assume all liability associated with this permit.

G. The Collector's permit shall be valid from January 1 to midnight of December 31 of the year of issue or as otherwise specified on the permit.

H. No animals taken under the provisions of a Collector's permit shall be sold, offered for sale, traded, or bartered.

I. Permit holders must file a report with the Division of Fish and Wildlife within thirty days of the expiration date of the permit or as otherwise specified on the permit. The report shall require the permittee to record all information requested including: the species of wildlife collected, the number of individual animals, the disposition of animals, and other information as may be required by the Division.

J. Applications and/or permits for Collector's Permit may be revoked or suspended when:

1. The applicant or permittee failed to provide all required information on the application or to provide truthful information;

2. The applicant or permittee failed to pay the required permit fee;

3. The permittee has failed to submit the annual report or;

4. The failure of the permittee to comply with any of the conditions of any DEM permit or is in violation of any of the provisions of Titles 20 and 11, or

other applicable provisions of the R.I. Gen. Laws or any duly promulgated DEM rule or regulation implementing said statutory requirements.

K. Permittees must possess a valid Rhode Island firearms hunting license, if using firearms while collecting or taking animals under the authority of a Collector's permit. The use of firearms is subject to all state and local restrictions unless explicitly exempted from such restriction pursuant to the permit.

L. Issuance of a permit does not exempt the permittee from compliance with the provisions of any other local, state, or federal statues, regulations or ordinances.

M. The capture, handling, or possession of any federally listed endangered species, unless specifically approved by the permit and applicable federal requirements, is prohibited.

N. Permit applications requesting the capture, handling, or possession of migratory birds must be accompanied by the applicant's current federal banding or migratory bird permit.

4.7 Violations

A. Any violation pursuant to the provisions of R.I. Gen. Laws Title 20 and the rules and regulations herein, either by a permittee or a sub-permittee working under said permittee may be cause for imposing penalties in accordance with the provisions of the applicable statute, as well as the revocation of existing permit(s) of both the sub-permittee and responsible permittee.

4.8 Repealed

4.9 Repealed

4.10 Appeal and Hearing Procedures

A. Opportunity for Hearing

1. Denials -- Any person who feels aggrieved by a decision of the permitting agency relatable to his/her application for a permit, permit renewal, or other approval may appeal to the Administrative Adjudication Division, for review of the subject decision.

2. Violations -- Any person who feels aggrieved by a notice of violation concerning any of the provisions of these rules, may request a hearing before the Administrative Adjudication Division, subject to the provisions of R.I. Gen. Laws § 42-17.1-2(21).

3. Hearings and Administrative Procedure -- Pursuant to the authority granted to the Department in 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) days of receipt of the contested agency enforcement action.

b. Any person who seeks an adjudicatory hearing relative to the denial of a permit or sub-permit 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.

4.11 Repealed

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CHAPTER 60 - FISH AND WILDLIFE

SUBCHAPTER 00 - N/A

PART 4 - RULES AND REGULATIONS GOVERNING COLLECTOR'S PERMITS (250-RICR-60-00-4)

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