250-RICR-30-00-3

TITLE 250 - DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 30 - MANAGEMENT SERVICES

SUBCHAPTER 00 - N/A

PART 3 - Rules and Regulations Governing Fish and Wildlife Vendor Agents

3.1 Authority

A. These regulations are adopted pursuant to R.I. Gen. Laws Chapters 42-35, 42-17.1, 42-17.6, 20-1, and 20-2.

B. These Rules and Regulations are promulgated pursuant to R.I. Gen. Laws Chapter 42-17.1, “Department of Environmental Management”, Chapter 42-17.6, “Administrative Penalties for Environmental Violations”, Chapter 20-1, “General Provisions” and Chapter 20-2, “Licensing” in accordance with the provisions of Chapter 42-35, “Administrative Procedures Act”.

C. The Offices of Management Services, the Office of Boat Registration and Licensing, and the Division of Law Enforcement shall be responsible for administering and enforcing these Rules and Regulations on behalf of the Director. The Offices of Management Services, the Office of Boat Registration and Licensing, and the Division of Law Enforcement, may at any time, when necessary, consult with and/or coordinate its responsibilities and duties with any other Division, Section, Office, or program of the Department of Environmental Management.

3.2 Introduction and Purpose

These Rules and Regulations are promulgated by the Director of the Department of Environmental Management to establish procedures and requirements governing agents authorized by the Director to issue licenses that are required for hunting, fishing and the taking of fish, game, birds, shellfish, or other wild animals within the State of Rhode Island and its territorial waters and to require such agents to deliver to the Director a bond. These Rules and Regulations are

further promulgated to administer and enforce R.I. Gen. Laws §§ 20-2-1 and 20-2-13.

3.3 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.

3.4 Definitions

A. For the purposes of these regulations, the following terms shall have the following meanings:

1. “Administrative Adjudication Division" or "AAD” means the Rhode Island Department of Environmental Management Administrative Adjudication Division for Environmental Matters.

2. “Agent” means any responsible citizen or corporation of this State or of adjoining States, engaged in operating sporting goods citizen and/or corporations to act as agents with authority to issue licenses, permits and stamps in the manner and under the conditions set for in R.I. Gen. Laws Chapter 20-2.

3. “Application” means the form or forms prescribed by the Department for citizens and/or corporations to apply to the Department to become an agent of the Director with authority to and for the purpose of issuing licenses, permits and stamps in the manner and under the conditions set for in R.I. Gen. Laws Chapter 20-2.

4. “Bond” means a written promise to pay money or do some act within a certain time.

5. “Citizen” means a person who is a citizen of the United States of America.

6. “Corporation” means an entity having authority under law to act as a single person distinct from the shareholders that own it.

7. “Department” means the Department of Environmental Management or DEM, and may be used interchangeably.

8. “Director” means the Director and/or his or her designee of the Department of Environmental Management.

9. “Division of Law Enforcement” means the Division of Law Enforcement within the Department of Environmental Management.

10. “License” means any licenses, permits, tags, or stamps that are required for hunting, fishing and the taking of fish, game, birds, shellfish, or other wild animals within the State of Rhode Island and its territorial waters.

11. “Licensee” means any person authorized to receive a license pursuant to R.I. Gen. Laws Chapter 20-2, which authorizes the registrant to fish, shellfish, or to pursue, hunt, and kill game in the State of Rhode Island during those seasons and according to those conditions as shall be provided by law.

12. “Resident” means an individual who has had his or her actual place of residence and has lived in the State of Rhode Island for a continuous period of not less than six (6) months.

13. “State” means the State of Rhode Island.

14. “Surety company” means a company or corporation authorized to do business in the State of Rhode Island to engage in the business of entering into guaranty and suretyship contracts and acting as a surety on bonds.

B. As used in these Rules and Regulations, all terms not defined herein shall have the meaning given them in R.I. Gen. Laws Chapter 42-35.

3.5 Agent Requirements

3.5.1 Becoming an Agent

A. Every citizen and/or corporation who seeks authority from the Director to act as an agent of the Director to issue licenses for hunting, fishing and the taking of fish, game, birds, shellfish, or other wild animals within the State of Rhode Island and its territorial waters for the State of Rhode Island, must submit a written application to the Director and/or his or her designee.

B. Such application will be on forms provided by the Office of Boat Registration & Licensing or as otherwise designated by the Office of Boat Registration & Licensing, however the application must provide the following information:

1. Name and address of citizen and/or corporation seeking to serve as an authorized agent of the Director; and,

2. Description of citizen and/or corporation, including, but not limited to whether the citizen and/or corporation is a sporting goods store; and,

3. Hours of operation of citizen and/or corporation; and,

4. The name, address, and telephone number of the designated contact person(s) to serve as liaison between the citizen and/or corporation and the Office of Boat Registration and Licensing; and any other information as reasonably requested by the Department.

C. All citizens and/or corporations are required to enter an agreement with the Department prior to approval by the Director to become an agent. Such agreement will be on forms prescribed by the Office of Boat Registration & Licensing.

D. All corporations or partnerships are required to provide a certificate of disclosure of corporation or partnership and a certificate of good standing or legal existence, if applicable, from the Secretary of State prior to approval by the Director to become an agent.

E. The Office of Boat Registration & Licensing must receive the written on-site inspection and report of the findings of the Division of Law Enforcement pursuant to § 3.5.3 of this Part herein prior to appointment as an agent.

3.5.2 Bond Requirements

A. Any citizen and/or corporation who seeks authority from the Director to act as an agent of the Director to issue licenses for hunting, fishing and the taking of fish, game, birds, shellfish, or other wild animals within the State of Rhode Island and its territorial waters for the State of Rhode Island must obtain a bond with a surety company authorized to do business in the State of Rhode Island. All agents are required to obtain a surety bond in the amount of ten thousand dollars ($10,000.00). The bond requirements are as follows:

1. All agents must keep their bonds in full force for the entire licensing year; and,

2. All agents are required to notify the Office of Boat Registration & Licensing within 48 hours of cancellation or lapse of their bond; and,

3. All agents must provide the Office of Boat Registration & Licensing a true copy of their bond along with their agent application.

B. Failure to obtain a bond or any other violation of §§ 3.5.2(A)(1) through (A)(3) of this Part above is grounds to deny, suspend or revoke an agent's authorization to issue licenses.

C. The bond will cover all license types sold and must be renewed annually, prior to any new licenses being issued to the agent. The bond must be renewed prior to March 1st of each year, and remain valid March 1st through the last day in February, annually.

D. Agents shall obtain a surety bond in the amount of ten thousand dollars ($10,000.00) that covers each location or premises in which licenses are sold in accordance with these regulations.

3.5.3 On-Site Inspection and Report

A. Upon receipt by the Director and/or his or her designee of an application pursuant to § 3.5.1(A) of this Part, the citizen and/or corporation's place of business shall be inspected by a representative of Department's Division of Law Enforcement. Such inspection shall include but not be limited to:

1. Verification of facts contained in agent application, and;

2. Whether the applicant has a permit to make retail sales, and;

3. Whether the location where sales are to be made is a sporting goods store, and;

4. A criminal background check.

B. Such inspection shall take place at a reasonable time and for a reasonable duration.

C. The Division of Law Enforcement shall make a written report of the findings of the inspection. Such inspection report shall be transmitted to the Office of Boat Registration & Licensing.

D. Such written report by the Division of Law Enforcement shall be made available to the citizen/corporation upon written request subject to the provisions of R.I. Gen. Laws § 38-2-1 *et. seq.*

E. The Division of Law Enforcement may conduct inspections of agents at any reasonable time.

3.5.4 Obtaining Licenses from the Department

A. Agents may obtain Licenses from the Department that are required for hunting, fishing and the taking of fish, game, birds, shellfish, or other wild animals within the State of Rhode Island and its territorial waters pursuant to these Rules and Regulations upon satisfactory receipt of all of the following:

1. A completed agent application; and,

2. A copy of the current year's bond; and,

3. The inspection report from the Division of Law Enforcement; and,

4. Completed and signed agreement with the Office of Boat Registration & Licensing.

B. No new licenses will be sent out if the prior month or year's account has an outstanding balance, or if the agent is in violation of these Rules and Regulations.

C. Each agent shall be assigned an agent number that is to be used on all correspondence to the Office of Boat Registration & Licensing.

D. Agents who sell their business or close before the end of the season must return all unsold and voided licenses and monies owed to the Department within five (5) business days of the sale or closure of the business. Agents shall not transfer licenses to new business owners, other agents or other locations. Failure to comply with these rules may result in collection action or further legal action.

3.5.5 Issuance of Licenses

All licenses shall be issued in accordance with the following requirements:

A. Agents and their employees shall issue all licenses in compliance with R.I. Gen. Laws § 20-13-5;

B. Agents and their employees shall remit all money and license receipts to the State in compliance with R.I. Gen. Laws §§ 20-2-3 and 20-2-4;

C. Agents and their employees shall verify all hunter safety requirements in compliance with R.I. Gen. Laws § 20-13-4 at the point of sale as shown on license application prior to the issuance of a license;

D. Agents and their employees shall display all Department issued signs in a conspicuous location at the point of sale;

E. Licenses shall be issued only by approved agents or by authorized employees of such agents who have been properly trained by the agents in the issuance of licenses;

F. Agents shall be responsible for all licenses issued to them by the State whether sold, lost, missing, stolen, damaged or voided;

G. All licenses shall be issued in consecutive license number order;

H. Licenses shall not be backdated for any reason;

I. If a mistake is made in filling out a license, the license must be voided and a new license issued. Licenses containing erasures, changes or corrections of any kind shall be void and invalid.

J. Agents shall notify the Office of Boat Registration & Licensing if a licensee's payment for a license by check or credit card is returned by the bank or otherwise invalidated by the bank or credit card company. The Office of Boat Registration & Licensing shall immediately notify the Division of Law Enforcement of same.

3.6 Penalties

3.6.1 Penalties

A. In the event of a violation of these regulations the Director may:

1. Issue a written warning to an agent; and/or,

2. Suspend an agent's authority to issue licenses; and/or,

3. Revoke an agent's authority to issue licenses; and/or,

4. Assess penalties in accordance with R.I. Gen. Laws Chapter 42-17.6 and the Rules and Regulations for Assessment of Administrative Penalties; and/or,

5. Assert a claim on an agent's bond in the event of an agent's failure to remit monies due the State.

6. In accordance with R.I. Gen. Laws § 20-2-3, all license coupon books supplied to agents remain state property. Accordingly, the Department reserves the right to retrieve any unsold or voided license coupon books, tags or stamps at any time where an agent has:

    a. Failed to remit all monies due to the Department on the first Monday of every month in accordance with R.I. Gen. Laws § 20-2-3 and;

    b. The Director reasonably believes that said monies exceed or are projected to exceed the amount of the agent's bond during the following month.

3.6.2 Notice of Suspension or Revocation of Agent Authority

A. The Department may issue notice in the form of a suspension or revocation of agent authority to any agent who is in violation of these regulations or any other law, rule or regulation regarding the issuance of licenses for hunting, fishing and the taking of fish, game, birds, shellfish, or other wild animals within the State of Rhode Island and its territorial waters for the State of Rhode Island;

B. The party served with a notice of suspension or revocation of agent authority may request an adjudicatory hearing with the Administrative Adjudication Division within thirty (30) days of the date of the written notice. Failure to request a hearing within said time period constitutes a waiver of the right to appeal.

C. The request for an adjudicatory hearing must be made in writing and in accordance with the Rules and Regulations for Administrative Adjudication

Division and filed with the Administrative Adjudication Division a copy of such request must be forwarded to the Office of Boat Registration & Licensing.

D. A notice of suspension or revocation automatically becomes a final order of the Director enforceable in Superior Court upon failure to request an adjudicatory hearing as set forth herein.

3.7 Severability

If any provision of these Rules and Regulations, or the application thereof to any person, corporation, business entity, 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.

3.8 Superseded Rules and Regulations

On the effective date of these Rules and Regulations, all previous Rules and Regulations, and any policies regarding the administration and enforcement of R.I. Gen. Laws § 20-2-2, shall be superseded except as set forth herein. However, any actions taken by, or application submitted to, the Department prior to the effective date of these Rules and Regulations shall be governed by the policies in effect at the time the action was taken, or application filed.

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