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TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 90 – MARINE FISHERIES

SUBCHAPTER 00 – N/A

PART 4 – SHELLFISH

4.1 Purpose

A. The purpose of these Rules and Regulations is to manage the marine resources of Rhode Island.

4.2 Authority

A. These Rules and Regulations are promulgated pursuant to R.I. Gen. Laws Title 20, R.I. Gen. Laws Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with R.I. Gen. Laws Chapter 42-35, Administrative Procedures Act.

4.3 Definitions

A. See Part 1 of this Subchapter.

4.4 License Required

4.4.1 Recreational

A. Resident: Rhode Island residents are not required to obtain a license for the recreational harvest or possession of shellfish.

B. Non-resident: A non-resident over the age of twelve (12) years wishing to harvest or possess shellfish recreationally in Rhode Island waters must obtain one (1) of the flowing licenses:

1. Fourteen (14) day: This license is valid for fourteen (14) consecutive days including the date of issuance, and is limited to one (1) license per person per calendar year. The annual fee is eleven dollars ($11.00).

2. Annual: This license is valid from the date of purchase until the last day in February. The annual fee is two hundred dollars ($200.00).

3. Non-resident landowner: This license is available to non-resident landowners and is valid from the date of purchase until the last day in February. Ownership in the form of a current tax bill from a town or city hall showing that the non-resident landowner is current in his or her

property tax obligation is required at time of application. The annual fee is twenty-five dollars ($25.00).

4.4.2 Commercial

A. No person shall take shellfish from the marine waters of Rhode Island commercially without a valid commercial fishing license issued by the Director pursuant to Part 2 of this Subchapter.

B. A commercially licensed fisherman shall only sell, barter, or trade shellfish taken from Rhode Island waters to a licensed shellfish dealer or multipurpose dealer.

C. A commercially licensed fisherman shall not sell, deliver, or otherwise transfer shellfish taken from Rhode Island waters to a licensed shellfish or multipurpose dealer without first presenting said dealer, a valid shellfish license issued by the DEM.

4.5 General Provisions

A. Recreational harvest: Shellfish harvested recreationally shall not be sold or offered for sale.

B. No person shall take shellfish from waters declared polluted by the Director pursuant to R.I. Gen. Laws § 20-8.1-3 unless authorized by the Director, except whelk or bay scallop pursuant to this Part. For the water quality status of shellfish grounds subject to conditional closures or emergencies call 401-222-2900.

C. Night shellfishing prohibited: The harvesting of shellfish is prohibited during the hours between sundown and sunrise.

D. Opening shellfish on water: No person shall possess the meats of six (6) or more shellfish while shellfishing on the waters of the State, or throw the shells of open bay scallops onto bay scallop beds.

4.6 Equipment Provisions and Harvest Methods

A. SCUBA prohibition: The taking of shellfish by the use of a Self-Contained Underwater Breathing Apparatus (SCUBA) from Green Hill Pond, Quonochontaug Pond, Ninigret Pond, and Potter Pond is prohibited.

B. The use of a diving apparatus is prohibited while recreational shoredigging.

C. Use of devices capable of harvesting shellfish while in polluted areas: No person shall work, cast, haul, or have overboard a dredge, pair of tongs, rake or rakes, air-assisted equipment, water-assisted equipment, or any other implement capable of harvesting shellfish, except for the taking of whelk in pots and the use of an implement commonly employed for the taking of bay scallops (within

established bay scallop harvest seasons), in waters declared polluted by the Director.

D. Power hauling of tongs and bullrakes: Power hauling of tongs and bullrakes for any purpose other than the removal and retrieval of bullrakes and tongs from the benthic sediments is prohibited.

E. Dimensions for bullrakes and tongs when using power hauling equipment: No person shall use any power hauling equipment in the operation of bullrakes and tongs with dimensions exceeding the following:

1. Maximum width measured along a line parallel to the tooth bar: Thirty-one and one half inches (31 1/2”).

2. Maximum tooth length: Four and one half inches (4 1/2”).

3. Maximum basket depth: Twelve inches (12”), measured along a line perpendicular to the tooth bar and extending from the tooth bar to any point on the basket.

4. Possession of bullrakes and tongs in excess of these size restrictions shall be prohibited aboard vessels equipped with any power hauling equipment.

5. Except as required for safety or to avoid property loss, no vessel involved in the harvest of bay quahogs or oysters by use of bullrakes or tongs may be moved or propelled by any source of mechanical power at any time when any bullrakes or tongs operated from such vessel are submerged in the waters of the state.

F. Tong construction: No person shall take shellfish, or attempt to take shellfish, or have in his possession while on the waters of this State, with tongs not meeting the following dimensions:

1. Minimum tooth gap: Not less than one inch (1”) apart.

2. Heads: Heads on the bar or heads constructed with wires, rods, crossbars, or reinforcement that will form a rectangle shall not be less than one inch (1”) by two and one half inches (2 1/2”).

3. A tolerance of one sixteenth of an inch (1/16”) is allowed.

G. Bullrake construction: No person shall take shellfish, or attempt to take shellfish, or have in his possession while on the waters of this State, with a bullrake not meeting the following dimensions:

1. Minimum tooth or tine gap: Not less than one inch (1”) apart.

2. Crossbars or reinforcement that will form a rectangle shall not be less than one inch (1”) by two and one half inches (2 1/2”).

3. A tolerance of one sixteenth of an inch (1/16”) is allowed.

4.7 Bay Quahog

4.7.1 Minimum size

A. One inch (1") shell thickness (hinge width).

4.7.2 Season

A. Waters other than Shellfish Management Areas: Open daily.

B. Greenwich Bay Shellfish Management Area sub-areas 1 and 2:

1. Recreational and commercial shoredigging: Open daily.

2. Other than shoredigging (recreational or commercial):

a. December 20232024: Open only from 8:00 A.M. until 12:00 P.M. on December 13, 15, 18, 19, 20, 21, 22, 26, 27, 28, and 29 11, 13, 16, 17, 18, 19, 20, 23, 24, 26, 27, and 30.

b. If the season is expired or unspecified, the following default season shall be in effect: Open only from 8:00 A.M. until 12:00 P.M. on Mondays, Wednesdays, and Fridays, beginning on the second (2nd) Wednesday of December through the end of April, excluding December 25 and January 1.

c. Recommendation for a change to the season must be submitted to the Director at least sixty (60) days prior to the first proposed opening date. The schedule for the month of December may include up to forty-eight (48) hours of permitted shellfishing, spread over any number of days, excluding December 25.

C. Greenwich Bay Shellfish Management Area sub-area 3: Open daily.

D. Conimicut Point Shellfish Management Area: Open daily.

E. Potowomut Shellfish Management Area sub-area 1: Open daily.

F. Potowomut Shellfish Management Area sub-area 2: Closed.

G. Potowomut Shellfish Management Area sub-area 3: Open daily.

H. High Banks Shellfish Management Area: Open daily.

I. Bissel Cove/Fox Island Shellfish Management Area:

1. Recreational and commercial shoredigging: Open daily.

2. Other than shoredigging (recreational or commercial):

a. ~~December 2022: Open only from 8:00 A.M. until 12:00 P.M. on December 14, 16, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30. If the season is expired or unspecified, the following default season shall be in effect: Open 8:00 A.M. to 12:00 P.M. on Mondays, Wednesdays, and Fridays, beginning on the second (2nd) Wednesday of December through the end of April, excluding December 25 and January 1.~~

~~b. If the season is expired or unspecified, the following default season shall be in effect: Open 8:00 A.M. to 12:00 P.M. on Mondays, Wednesdays, and Fridays, beginning on the second (2nd) Wednesday of December through the end of April, excluding December 25 and January 1.~~

~~c~~b. Recommendation for a change to the default season must be submitted to the Director at least sixty (60) days prior to the first (1st) proposed opening date.

J. Mill Gut Shellfish Management Area: Open daily from the second (2nd) Wednesday in December through April 30 annually.

K. Bristol Harbor Shellfish Management Area:

1. Recreational and commercial shoredigging: Open daily.

2. Other than shoredigging (recreational or commercial):

a. If the season is expired or unspecified, the following default season shall be in effect:

(1) January 2 through January 31: Open only from 8:00 A.M. until 12:00 P.M. on Mondays, Wednesdays, and Fridays

(2) February 1 through April 30: Open daily.

(3) May 1 through January 1: Closed.

(4) Recommendation for a change to the default season must be submitted to the Director at least sixty (60) days prior to the first (1st) proposed opening date.

L. Kickemuit River Shellfish Management Area: Open daily.

M. Jenny Creek Shellfish Management Area: Closed.

N. Sakonnet River Shellfish Management Area: Open daily.

O. Point Judith Pond Shellfish Management Area: Open daily.

P. Potter Pond: Open daily, except for the following:

a. Potter Pond sub-area 1: Closed.

Q. Ninigret (Charlestown) Pond Shellfish Management Area: Open daily, except for the following:

1. Ninigret Pond sub-area 1: Closed.

2. Ninigret Pond-Foster Cove sub-area 1: Closed until January 1, 2025.

3. Ninigret Pond-Foster Cove sub-area 2: Closed until January 1, 2025.

R. Quonochontaug Pond Shellfish Management Area: Open daily, except for the following:

a. Quonochontaug Pond sub-area 1: Closed.

b. Quonochontaug Pond sub-area 2: Closed.

S. Winnapaug Pond Shellfish Management Area: Open daily, except for the following:

1. Winnapaug Pond sub-area 1: Closed.

T. Green Hill Pond Shellfish Management Area: Closed.

U. Narrow River Shellfish Management Area: Closed.

V. Little Narragansett Bay and Pawcatuck River Shellfish Management Area: Closed.

W. Providence and Seekonk Rivers Shellfish Management Area

1. Recreational shoredigging: Open daily.

2. Recreational other than shoredigging: Closed.

3. Commercial 2024 harvest schedule: Open only from 8:00 A.M. until 11:00 A.M. on the following dates:

a. May 6, 13, 20, 22, and 28.

b. June 3, 10, 17, 19, 24, 26, and 28.

c. July 1, 2, 8, 10, 15, 17, 22, 24, 29, and 31.

d. August 5, 7, 12, 14, 19, 21, 26, 28, and 30.

e. September 3, 9, 16, 23, and 30.

f. October 7, 14, 21, and 28.

g. Fishery closure: The area will close once twenty-one (21) days have been open to harvest for the months from May through October.

h. December 16 through December 20, 2024: Open only on the first two (2) non-consecutive weekdays that are not closed due to water quality impairment.

i. December 23 through December 27, 2024: Open one (1) weekday on the first available weekday that is not closed due to water quality impairment, not including December 24 and 25 which shall be closed.

4. Commercial 2025 harvest schedule: Open only from 8:00 A.M. until 10:00 A.M. on the following dates:

a. February 10 and 24.

b March 10 and 24.

c. April 7 and 21.

5. On days closed in this area, the taking or possession of bay quahog is prohibited, and all gear used in the taking of bay quahog shall be stowed.

6. On days open as specified herein, all gear used in the taking of bay quahog shall be stowed except during the scheduled opening.

7. On days open as specified herein, possession of bay quahog is prohibited forty-five (45) minutes after a scheduled closure.

8. A vessel in possession of bay quahog harvested in an open area of State waters may transit a closed portion of State waters in possession of that species, provided the operator of the vessel has a valid fishing license, and all gear capable of harvesting shellfish is stowed.

X. Warren River Shellfish Management Area: Closed.

Y. Town Pond Shellfish Management Area: Closed.

Z. Jacobs Point Shellfish Management Area: Open daily.

4.7.3 Possession Limit

A. Waters other than Shellfish Management Areas

1. Recreational – Rhode Island resident: One half (1/2) bushel per person per day.

2. Recreational – licensed non-resident: One (1) peck per person per day.

3. Commercial

a. Multi-purpose and Standard license holders: Twelve (12) bushels per person per day.

b. Student Shellfish license and Sixty-five (65) and Over Shellfish license holders: Three (3) bushels per person per day.

B. Shellfish Management Areas

1. Recreational – Rhode Island resident: One (1) peck per person per day.

2. Recreational – Licensed non-resident: One half (1/2) peck per person per day.

3. Commercial: Three (3) bushels per person per day, except for the following:

a. Greenwich Bay Shellfish Management Area sub areas 1 and 2 commercial shoredigging:

(1) On days open to harvest as specified in § 4.7.2(B)(2)(a) of this Part: Three (3) bushels per person per day

(2) On days closed to harvest as specified in § 4.7.2(B)(2)(a) of this Part: One (1) peck per person per day.

b. Sakonnet River Shellfish Management Area: When harvesting surf clams, an incidental possession limit of one (1) bushel of bay quahogs for each ten (10) bushels of surf clams harvested is allowed, not to exceed twelve (12) bushels per person per day.

c. Providence/Seekonk Rivers Shellfish Management Area:

(1) Multipurpose and Standard license holders: Six (6) bushels per person per day.

d. A maximum of two (2) commercial possession limits per vessel per day is authorized in Shellfish Management Areas when two (2) licensed persons are on board the vessel.

4.7.4 Bay quahog diving basket construction

A. No commercially licensed diver shall take or attempt to take bay quahogs from the waters of the State of Rhode Island with a diver's bay quahog harvesting basket, bag, or combination of basket and bag, or similar device not meeting the following dimensions:

1. Bar spacing: Not less than one inch (1") by two and one half inches (2 1/2"). A tolerance of one sixteenth inch (1/16") is allowed.

2. Bag mesh on the bay quahog harvesting basket: Not less than two inches (2") when measured on the stretch (from inside of knot to inside of the knot). A tolerance of one eighth inch (1/8") for variance in the twine is allowed. The bag shall be hung on the square so that when held by the mouth, the twine forms fully opened squares.

4.7.5 Method of harvest

A. No person shall dig and/or take any bay quahogs from the waters of this State by dredge(s), rakes, or other apparatus operated by mechanical power or hauled by power boats, unless otherwise provided for in these Regulations.

4.8 Whelk

4.8.1 Minimum size

A. Two and one quarter inches (2 1/4") shell height. Shell height shall be the distance along a straight perpendicular line from a point on the opercular side of the shell to the farthest point of the top of the shell. This distance is measured with the whelk retracted, and shell placed with the operculum stably positioned against a flat surface. To properly measure shell height using a gauge: Minimum legal shell height shall be the two and one quarter inches (2 1/4") distance between opposing parallel surfaces, measured with the whelk retracted and shell placed with the operculum stably positioned against one (1) of the parallel surfaces. The whelk is legal-sized if it does not fit between the opposing parallel surfaces.

4.8.2 Taking, harvest or possession of whelk by non-residents

A. The taking, harvest or possession of whelk by non-residents is prohibited.

4.8.3 Season

A. Open daily in all marine waters of the state.

4.8.4 Possession limit

A. Recreational – Rhode Island resident – all marine waters of the state: One half (1/2) bushel per person per day; and maximum of one (1) bushel per vessel per day. A maximum of five (5) whelk pots may be deployed per person at any one time.

B. Commercial – all marine waters of the state: Thirty-five (35) bushels per vessel per day.

4.8.5 Commercial whelk pot limit

A. Each eligible license holder is authorized to set a maximum of three hundred (300) whelk pots at any one time.

4.8.6 Polluted waters harvest

A. The prohibition on the harvest and possession of shellfish in waters declared polluted by the Director pursuant to R.I. Gen. Laws § 20-8.1-3 shall not apply to whelk.

4.8.7 Mutilation and/or possession of whelk meat

A. Prior to landing of any whelk, no person shall mutilate any cooked or uncooked whelk by breaking and removing the meat from the shell or have in his or her possession any part or parts of any uncooked whelk so mutilated. In any and all prosecutions under this Subsection, the possession of any part or parts of any cooked or uncooked whelk so mutilated shall be prima facie evidence sufficient to convict. All whelks are to be landed whole in the shell.

4.8.8 Hauling or setting whelk pots at night

A. No person shall haul or unduly disturb any whelk pot within the territorial waters of this state between the hours of one (1) hour after sundown and one (1) hour before sunrise.

4.8.9 Commercial whelk pot tagging

A. Applicability: No person shall set, haul, or maintain a whelk pot unless the pot has attached a valid whelk pot tag issued by the Director.

B. Eligibility: Tags are available to all Multipurpose license holders and Standard with Unlimited Shellfish endorsement license holders.

C. Order for whelk pot tags shall be made on forms as prescribed by the Director.

D. Cost of tags shall be borne by the license holder and shall not exceed the cost of producing such tags by the vendor(s) selected by the Department.

E. Tags shall be permanently attached to the pot in a location clearly visible for inspection.

F. Tags shall be valid on an annual basis from April 1 through March 31.

G. Tags shall be a permanent, single-use design.

H. No person shall transfer whelk pot tags between whelk pots, or between individuals or vessels.

I. No person shall file a false claim of trap or trap tag loss.

J. No person shall possess at any one time more whelk pot tags than are authorized.

K. Only tags for the current fishing year, and either the immediate previous or following fishing year, may be attached to each whelk pot at any one time.

L. Pot tag types and issuance:

1. Each trap must have attached an original trap tag, unless replaced with a gear rotation or catastrophic tag issued pursuant to these regulations.

2. Original tags: E The number of tags issued initially may be in any amount not to exceed the maximum pot limit, plus an additional fifteen percent (15%) to be used in the event of routine trap or tag loss.

3. Gear rotation tags: Gear rotation tags are used for gear rotation and maintenance or to replace broken tags. The number of gear rotation tags issued shall not exceed the maximum pot limit. Gear rotation tags shall be held by the Director and be issued on a one-for-one basis upon receipt of the original tags.

3. Catastrophic loss tags:

a. Catastrophic loss tags are issued in the event of a catastrophic loss as determined by the license holder.

b. Catastrophic loss tags are special order only and may not be pre-ordered. The Department shall review the order for catastrophic loss tags within one (1) week after receipt.

c. A claim of catastrophic loss may be made twice per tag year. Catastrophic loss tags may be ordered in an amount equal to the number of original tags ordered.

d. Catastrophic loss tags shall be distinguishable from original trap tags (i.e. color).

e. In State waters, catastrophic loss tags must be placed in traps within ten (10) days after issuance, at which time all original and gear rotation trap tags become null and void.

f. The Division of Law Enforcement must be notified, in writing by certified mail, in cases of extenuating circumstances that do not permit catastrophic loss tags to be attached to traps.

g. In the event that catastrophic loss tags are not immediately available, the Director may authorize the use of new traps until catastrophic loss tags are received by said licensee.

h. Following the issuance of catastrophic loss tags, no person shall deploy a whelk pot for which a catastrophic loss tag has been issued and which does not display a valid catastrophic loss tag.

4.9 Soft-shell Clam

4.9.1 Minimum size

A. Two inches (2”) measured as the shell diameter or parallel to the long axis of the clam.

4.9.2 Season

A. The seasons and areas for the taking and possession of bay quahog as specified in § 4.7.2 of this Part shall apply to soft-shell clams.

4.9.3 Area restrictions

A. Providence/Seekonk Rivers Shellfish Management Area: The taking, harvest or possession of soft-shell clams is prohibited.

4.9.4 Possession limit

A. Waters other than Shellfish Management Areas

1. Recreational – Rhode Island resident: One half (1/2) bushel per person per day.

2. Recreational – Licensed non-resident: One (1) peck per person per day.

3. Commercial: Twelve (12) bushels per person per day.

B. Shellfish Management Areas

1. Recreational – Rhode Island resident: One (1) peck per person per day.

2. Recreational – Licensed non-resident: One half (1/2) peck per person per day.

3. Commercial: Twelve (12) bushels per person per day, except for the following:

   a. Conimicut Shellfish Management Area: Three (3) bushels per person per day.

   b. A maximum of two (2) commercial possession limits per vessel per day is authorized in Shellfish Management Areas when two (2) licensed persons are on board the vessel.

4.9.5 Control date

A. A control date of December 31, 2007 is established for the commercial soft-shell clam fishery in Rhode Island.

4.9.6 Equipment restrictions

A. No person shall dig and/or take any soft-shell clams from the waters of this State by dredge(s), rakes, or other apparatus operated by mechanical power or hauled by power boats, unless otherwise provided for in these Regulations.

4.10 Oyster

4.10.1 Minimum size

A. Three inches (3”) measured parallel to the long axis of the oyster.

4.10.2 Season

A. The seasons and areas closed to the taking and possession of bay quahog as specified in § 4.7.2 of this Part shall apply to oyster from September 15 through May 15; the taking of oyster in any waters of the state is prohibited from May 16 through September 14.

4.10.3 Area restrictions

A. Bissel Cove/Fox Island Shellfish Management Area: The taking, harvest or possession of oysters is prohibited until November 15, 2025.

B. Quonochontaug Pond: The taking, harvest or possession of oysters is prohibited until November 15, 2025.

C. Providence/Seekonk Rivers Shellfish Management Area: The taking, harvest or possession of oysters is prohibited.

4.10.4 Possession limit

A. Waters other than Shellfish Management Areas

1. Recreational – Rhode Island resident: One half (1/2) bushel per person per day.

2. Recreational – Licensed non-resident: One (1) peck per person per day.

3. Commercial: Three (3) bushels per person per day.

B. Shellfish Management Areas

1. Recreational – Rhode Island resident: One (1) peck per person per day.

2. Recreational – Licensed non-resident: One half (1/2) peck per person per day.

3. Commercial: Three (3) bushels per person per day, except for the following:

a. Jacobs Point Shellfish Management Area: One (1) peck per person per day.

b. A maximum of two (2) commercial possession limits per vessel per day is authorized in Shellfish Management Areas when two (2) licensed persons are on board the vessel.

4.10.5 Equipment restrictions

A. No person shall dig and/or take any oysters from the waters of this State by dredge(s), rakes, or other apparatus operated by mechanical power or hauled by power boats, unless otherwise provided for in these Regulations.

4.11 Bay Scallop

4.11.1 Minimum size

A. The taking or possession of a seed Bay scallop is prohibited. Seed bay scallops shall be immediately returned to their natural beds in the water from which taken.

4.11.2 Taking, harvest or possession of bay scallops by non-residents prohibited.

A. The taking, harvest or possession of bay scallops by non-residents is prohibited.

4.11.3 Season

A. The seasons and areas closed to the taking and possession of bay quahog as specified in § 4.7.2 of this Part shall apply to bay scallop from the first (1st) Saturday in November through December 31; the taking of bay scallops in any

waters of the state is prohibited from January 1 through the Friday before the first (1st) Saturday in November.

B. Dip-netting from a boat: Open only from the first (1st) Saturday in November through December 31.

C. Dredging: Open only from December 1 through December 31.

4.11.4 Possession limit

A. Recreational – all marine waters of the state: One (1) bushel per person per day.

B. Commercial – all marine waters of the state: Three (3) bushels per person per day.

4.11.5 Polluted waters harvest

A. The prohibition on the harvest and possession of shellfish in waters declared polluted by the Director pursuant to R.I. Gen. Laws § 20-8.1-3 shall not apply to bay scallop.

4.11.6 Closed area harvest

A. The taking of bay scallops by dip-netting from a boat is allowed in closed areas of shellfish management areas as specified in § 4.7.2(B) of this Part, unless otherwise specifically prohibited pursuant to this Part.

4.11.7 Dredging for bay scallops

A. Maximum number of single dredges used: Six (6) single dredges.

B. Maximum width of dredge blades: Twenty-eight inches (28”).

C. Maximum length of bag: Thirty-six inches (36”).

D. Each single dredge shall be towed and hauled aboard the registered vessel individually. All oysters, soft-shell clams, or bay quahogs shall be immediately returned to the waters from which they were taken.

E. The use of bay scallop dredges is prohibited in areas closed to harvest for bay quahog pursuant to § 4.7.2(B)(2) of this Part.

4.12 Blue Mussel

4.12.1 Minimum size

A. No minimum size.

4.12.2 Season

A. The seasons and areas closed to the taking and possession of bay quahog as specified in § 4.7.2 of this Part shall apply to blue mussels.

4.12.3 Possession limit

A. Waters other than Shellfish Management Areas

1. Recreational – Rhode Island resident: One half (1/2) bushel per person per day.

2. Recreational – Licensed non-resident: One (1) peck per person per day.

3. Commercial: Unlimited.

B. Shellfish Management Areas

1. Recreational – Rhode Island resident: One (1) peck per person per day.

2. Recreational – Licensed non-resident: One half (1/2) peck per person per day.

3. Commercial: Three (3) bushels per person per day. A maximum of two (2) commercial possession limits per vessel per day is authorized in Shellfish Management Areas when two (2) licensed persons are on board the vessel.

4.12.4 Dredging for blue mussels

A. When dredging for blue mussels, all bay scallops, oysters, and bay quahogs shall be immediately returned to the waters from which they were taken.

B. Blue Mussel Dredging Permit: A permit issued from the Director is required for the commercial dredging for blue mussels. Permits shall be valid only for the calendar year of issuance. Applications shall be made on forms as prescribed by the Director.

4.13 Surf Clams

4.13.1 Minimum size

A. Five inches (5”) measured parallel to the long axis of the clam.

4.13.2 Season

A. The seasons and areas closed to the taking and possession of bay quahog as specified in § 4.7.2 of this Part shall apply to surf clams.

4.13.3 Possession Limit

A. Waters other than Shellfish Management Areas

1. Recreational – Rhode Island resident: One half (1/2) bushel per person per day.

2. Recreational – Licensed non-resident: One (1) peck per person per day.

3. Commercial: Two hundred (200) bushels per person per day.

B. Shellfish Management Areas

1. Recreational – Rhode Island resident: One (1) peck per person per day.

2. Recreational – Licensed non-resident: One half (1/2) peck per person per day.

3. Commercial:

a. Sakonnet River Shellfish Management Area: Two hundred (200) bushels per vessel per day.

b. Shellfish Management Areas other than the Sakonnet River Shellfish Management Area: Three (3) bushels per person per day.

4. A maximum of two (2) commercial possession limits per vessel per day is authorized in Shellfish Management Areas when two (2) licensed persons are on board the vessel.

4.13.4 Gear restrictions

A. Hydraulic dredging: The maximum width of a dredge blade, knife or manifold is forty-eight inches (48”).

B. Multiple dredge restriction: It is unlawful for any vessel to operate more than one (1) dredge while harvesting for surf clams.

C. The use of surf clam dredges is prohibited in areas closed to the harvest of bay quahog pursuant to § 4.7.2 of this Part.

4.13.5 Areas prohibited for the dredging of surf clams

A. All waters of the Sakonnet River north of a line extending from Church Point in the town of Little Compton, to Flint Point in the town of Middletown.

B. All waters of Narragansett Bay north of a line extending from Castle Hill Point in the city of Newport to Southwest Point in the town of Jamestown to Bonnet Point in the town of Narragansett.

4.13.6 Tagging of cages

A. Shellfish cages must be tagged in accordance with the United States Food and Drug Administration/RIDOH Regulations before being off-loaded in Rhode Island.

4.14 Ocean Quahog

4.14.1 Minimum size

A. No minimum size.

4.14.2 Season

A. Waters other than Shellfish Management Areas: Open daily.

B. Shellfish Management Areas: The seasons and areas closed to the taking and possession of bay quahog as specified in § 4.7.2 of this Part shall apply to ocean quahog.

4.14.3 Possession Limit

A. Waters other than Shellfish Management Areas

1. Recreational – Rhode Island resident: Unlimited.

2. Recreational – Licensed non-resident: Unlimited.

3. Commercial: Twenty-six (26) cages or eight hundred thirty-two (832) bushels per person per day (all commercial license types).

B. Shellfish Management Areas

1. Recreational – Rhode Island resident: Unlimited.

2. Recreational – Licensed non-resident: Unlimited.

3. Commercial: Unlimited.

4.14.4 Gear restrictions

A. The use of ocean quahog dredges is prohibited in areas closed to the harvest for bay quahog pursuant to § 4.7.2 of this Part.

4.14.5 Areas prohibited for the dredging of ocean quahogs

A. All waters of the Sakonnet River north of a line extending from Church Point in the town of Little Compton, to Flint Point in the town of Middletown.

B. All waters of Narragansett Bay north of a line extending from Castle Hill Point in the city of Newport to Southwest Point in the town of Jamestown to Bonnet Point in the town of Narragansett.

4.14.6 Tagging of cages

A. Shellfish cages must be tagged in accordance with the United States Food and Drug Administration/RIDOH Regulations before being off-loaded in Rhode Island.

4.15 Sea Scallop

4.15.1 Minimum size

A. Three and one-half inches (3 1/2”), measuring in a straight line from the hinge to the part of the shell furthest from the hinge, whether caught within the jurisdiction of this State or otherwise.

4.15.2 Season

A. Waters other than Shellfish Management Areas: Open daily.

B. Shellfish Management Areas: The seasons and areas closed to the taking and possession of bay quahog as specified in § 4.7.2 of this Part shall apply to sea scallops.

4.15.3 Possession limit

A. Waters other than Shellfish Management Areas

1. Recreational – Rhode Island resident: Forty (40) pounds shucked sea scallops; or five (5) bushels of in-shell sea scallops per vessel per day.

2. Recreational – Licensed non-resident: Forty (40) pounds shucked sea scallops; or five (5) bushels of in-shell sea scallops per vessel per day.

3. Commercial: For non-federally permitted vessels, four hundred (400) pounds of shucked sea scallops; or fifty (50) bushels of in-shell sea scallops per vessel per day (all commercial license types).

B. Shellfish Management Areas

1. Recreational – Rhode Island resident: Unlimited.

2. Recreational – Licensed non-resident: Unlimited.

3. Commercial: Unlimited.

4.15.4 Gear restrictions

A. Maximum dredge size for a vessel in possession of sea scallops: Ten and one-half feet (10 1/2’).

B. Minimum dredge ring size: Four inches (4”).

C. The minimum mesh size of a net, net material or any other material on the top of a sea scallop dredge (twine top) possessed or used by vessels fishing with sea scallop dredge gear/net size of twine top is ten-inch (10”) square or diamond mesh.

4.16 Wet Storage of Shellfish

A. No person shall engage in wet storage of molluscan shellfish without first obtaining a dealer's license from DOH and DEM.

4.17 Commercial Handling of Shellfish

A. Commercial shellfishermen shall conduct all activities and operations involving or relating to the possession and handling of shell stock so as to prevent contamination, deterioration and decomposition of such shell stock.

B. Containers used for storing shell stock must be clean.

C. Boat decks and storage bins used in the harvest or transport of shell stock shall be kept clean with potable water or water from the growing area in approved classification or the open status of conditional areas.

D. Commercial shellfishermen using a vessel to harvest and transport shell stock shall assure that said vessel is properly constructed, operated and maintained to prevent contamination, deterioration and decomposition of shell stock.

E. Commercial shellfishermen using a vessel to harvest and transport shell stock shall prevent bilge water from coming into contact with shell stock.

F. Commercial shellfishermen using a boat to harvest and transport shell stock shall provide such vessel with effective drainage to avoid contact between bilge water and shell stock.

G. Commercial shellfishermen using a vessel to harvest and transport shell stock shall locate bilge pumps so that discharge shall not contaminate shell stock.

H. Shell stock shall be washed reasonably free of bottom sediments as soon after harvesting as possible. The harvester shall be primarily responsible for washing shell stock. If shell stock washing is not feasible at the time of harvest, the dealer shall assume this responsibility. Water used for washing shall be from a potable water source, or growing area in the approved classification or open status of the conditionally approved classification.

I. The discharge of human sewage from a vessel used in the harvesting of shell stock, or from vessels that buy shell stock, within waters of the State is prohibited.

4.18 Commercial Tagging of Shellfish

A. Commercial shellfishermen must place all shellfish harvested into containers, and must tag each and every container with a “harvester tag” conforming to the requirements of this Subsection, prior to shellfish being placed in the container.

B. The harvester tag shall be durable, waterproof, and sanctioned by the Rhode Island Department of Health. The tag shall contain the following indelible, legible information in the order specified as follows: The harvester’s identification number as assigned by DEM; the date of harvest; the harvest commencement time; the harvest location as identified on the Rhode Island Shellfish Harvest Area Tagging Map; the shellfish management area; the type (species) of shellfish; and the approximate quantity of shellfish. The harvest commencement time will indicate the time that the first shellfish that the harvester is currently in possession of was removed from the water and should be the same for all shellfish that the harvester is in possession of regardless of tagging area.

C. Each tag shall also carry the following statement in bold capitalized type: “This tag is required to be attached until container is empty or it retagged and thereafter kept on file for 90 days." Commercial shellfishermen shall not place shell stock harvested from more than one (1) growing area into the same container. When the harvester is also a dealer, the harvester has the option to tag the shell stock with a harvester tag or a dealer’s tag meeting the requirements of the RIDOH Regulations.

D. Bulk tagging of shell stock will be permitted only with prior approval of the Director under the following criteria:

1. When shell stock are harvested from one (1) harvest area on a single day, multiple containers may be utilized on a wrapped pallet, in a tote, in a net brailer, or other container and the unit tagged with a single tag; and,

2. A statement that all shell stock containers in this lot have the same harvest data and area of harvest; and number of containers in the unit.

4.19 Commercial Temperature Control of Shellfish

A. Commercial shellfishermen shall not allow shell stock to deteriorate or decompose from exposure to excessive temperature and shall deliver shell stock to a licensed dealer before such deterioration or decomposition occurs.

B. Harvest of shellfish from sunrise November 1 through sunset March 31 annually: The maximum allowable time between the commencement of harvest of shell stock and delivery to a dealer shall be twenty (20) hours. Possession of shell stock in excess of twenty (20) hours is prohibited.

C. Harvest of shellfish from sunrise April 1 through sunset October 31 annually: The maximum allowable time between the commencement of harvest of shell stock and delivery to a dealer shall be ten (10) hours. Possession of shell stock in excess of ten (10) hours is prohibited.

1. The harvester shall provide shading to all shellfish intended for harvest aboard vessels and during land-based deliveries.

2. Harvest of bay quahogs or oysters from within Designated Temperature Control Areas that exceed five hours to complete shall be placed in mechanical refrigeration or adequately iced in a storage container within five (5) hours of the commencement of harvest until the shellfish are transferred to a licensed dealer within ten (10) hours.

D. Whelk is exempt from temperature control requirements as specified in this Part. Ocean quahogs and surf clams are exempt from temperature control requirements as specified in this Part only if they are destined for thermal processing.

4.20 Shellfish Transplant Regulations

A. The Director is authorized and directed, after requiring all necessary safeguards, to transfer shellfish from uncertified waters of the State to approved areas. The Director may make Rules and Regulations governing the re-harvest of those shellfish to the best economic benefit of the State after all necessary safeguards to insure their cleanliness.

B. Any person participating in the transplant program shall surrender his commercial license to the conservation officer or DEM employee afloat on the transplant bed or otherwise stationed to collect licenses. The license must be surrendered before the participant commences digging shellfish.

C. The boundaries of the transplanting area shall be marked with designated corner markers. All shellfishermen participating in the transplant program shall harvest shellfish only within the boundaries of the transplant area so marked.

D. No shellfisherman shall commence harvesting shellfish in the transplant area before the hour at which the transplant program is scheduled to commence. Hours of transplanting shall be publicized in advance.

E. Shellfishermen participating in the transplant program shall bring no shellfish into the transplant area before beginning the transplant. Any shellfish on board a participant's boat shall be considered transplant shellfish, dug from the transplanting area.

F. Any participant in the transplant program shall be considered to have completed his participation in the program when he presents his shellfish to the "buy boat/buy station" for counting/weighing. If the method of transplanting involves

diggers planting their own catch in the transplant bed, the shellfisherman shall first present his catch to the authorized DEM officer for counting/weighing, and shall then proceed directly to the planting area. Once the shellfisherman commences to remove the shellfish from his boat to the "buy boat/buy station" or into the transplant bed, he shall remove all shellfish from his boat before changing location. Any change of location shall indicate that the shellfisherman has cleared his boat of shellfish and is ready for inspection and return of license by DEM officers. No shellfish shall be aboard any participant's boat at the time of inspection.

G. Temporary creation of a transplanting area shall in no way affect the polluted status of the waters therein, or of any waters surrounding the transplanting area and declared polluted.

H. Violation of any of these provisions shall be punishable by a fine of up to five hundred dollars ($500.00) and/or up to thirty (30) days in jail.

I. Agents of the DEM may limit the maximum allowable harvest by each participant in a transplant. Agents of the DEM may limit the number of participants in a shellfish transplant program provided that the limit is determined in a fair and equitable manner.

J. Dredging, Raking, and Tonging in Transplant Beds: Those areas to which the shellfish are transferred shall be marked out, and dredging, raking, or tonging on them shall be prohibited except under the special direction of the Director.

4.21 Education Certification for Commercial Shellfish Harvesters

A. Applicability. Applicants for the following licenses and permits shall complete an education certification program administered by the Department via an online tutorial prior to the issuance of their license or permit:

1. Standard Commercial Fishing License with Limited or Unlimited Shellfish endorsement, 65 and Over Shellfish License, and Student Shellfish License.

2. Multipurpose licenses only if the license holder harvests and lands any species of shellfish other than whelk, and scallops if shucked prior to landing.

3. Resident and Non-Resident Landing Permits only if the permit holder harvests and lands any species of shellfish other than whelk, and scallops if shucked prior to landing.

B. Applicable license and permit holders who become engaged, initially, in the harvest and landing of shellfish in Rhode Island – excluding whelk, and scallops if shucked prior to landing -- shall complete the certification program prior to the initial landing.

C. Certification shall expire five (5) years from the date of completion, after which all applicable license and permit holders must retake the training for re-certification.

D. Penalties for Non-compliance: Applicable persons who have not obtained certification in accordance with the deadlines set forth in this Part shall be suspended by the department until such time as the holder obtains certification. The filing of an appeal shall not stay the suspension.