



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

DIVISION OF FISH AND WILDLIFE
DIVISION OF LAW ENFORCEMENT

Rhode Island Marine Fisheries Regulations



SHELLFISH

July 22, 2014

AUTHORITY: Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

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1. PURPOSE

The purpose of these rules and regulations is to manage the marine resources of Rhode Island.

2. AUTHORITY

These rules and regulations are promulgated pursuant to Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35, Administrative Procedures Act, of the R.I. General Laws of 1956, as amended.

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.

4. SEVERABILITY

If any provision of these Rules and Regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

5. SUPERSEDED RULES AND REGULATIONS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and regulations, and any policies regarding the administration and enforcement of these rules and regulations, shall be superseded. However, any enforcement action taken by, or application submitted to, the Department prior to the effective date of these Rules and Regulations shall be governed by the Rules and Regulations in effect at the time the enforcement action was taken, or application filed.

6. DEFINITIONS

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

Air-assisted harvest means the use of an air compressor or any device capable of pressurizing air/gas or compressed gas in a tank, to power any device designed to disturb the substrate, create a vacuum effect or sediment displacement effect in collection of aquatic species.

Approved waters, Approved shellfish growing areas means waters of the state which have been classified by the RI Department of Environmental Management (DEM) Office of Water Resources as Approved Areas, fit for the taking of shellfish for human consumption on a regular basis, according to criteria established by the National Shellfish Sanitation Program (NSSP) Manual of Operations. These classifications may be subject to change as water quality conditions dictate. (20-8.1-1)

Bay quahaug means hard clam, *Mercenaria mercenaria*. (20-1-3)

Bay scallop means *Argopecten irradians*. (20-1-3)

Bay scallop dredging means towing of a bay scallop dredge during the established bay scallop dredging season.

Bay scallop seed means a bay scallop with a bright, thin, slightly curved shell with no foreign adherent, the shell having no well-defined raised annual growth line, and the bay scallop being less than one (1) year old.

Blue mussel means *Mytilus edulis*. (20-1-3)

Biosecurity Board means the board, within the CRMC, established pursuant to R.I.G.L. Section 20-10-1.1 and charged with assisting and advising the CRMC in carrying out the provisions of R.I.G.L. Chapter 20-10. (1.3)

Bullrake means any curved metal instrument or basket with 4 or more metal tines (teeth) which is customarily used to harvest quahogs.

Bushel means a standard U.S. bushel, 2,150.4 cubic inches capacity. (20-1-3)

Bycatch means fish, shellfish, or crustaceans that are taken while a fisher is directing his/her effort toward the harvest of another fish, shellfish, or crustacean.

Conch means Channeled Whelk, *Busycotypus canaliculatus*; or, Knobbed Whelk, *Busycon carica*. (20-1-3)

Conch trap/pot means any pot or trap designed or adapted principally for the catching or taking of conchs.

Conditionally approved water means any shellfish grounds underlying waters examined and found fit for the taking of shellfish for human consumption on an intermittent basis, declared by the Director as conditionally approved waters pursuant to R.I.G.L. Sections 20-8.1-3 and 20-8.1-4. Such classification may be subject to change as water quality conditions dictate. (20-8.1-1)

CRMC means the Rhode Island Coastal Resources Management Council. (20-10-2)

Dealer means a person who is licensed by the State of Rhode Island to sell, purchase, barter, and/or trade seafood.

DEM or Department means the Rhode Island Department of Environmental Management. (20-8.1-1, etc.)

DFW or Division means the Division of Fish and Wildlife, within the Rhode Island Department of Environmental Management.

Director means the Director of the Department of Environmental Management or his or her duly appointed agents. (20-2.1-3; 20-8.1-1; 20-10-2)

DLE means the Division of Law Enforcement within the Department of Environmental Management.

DOH means the RI Department of Health.

Hinge width means the distance between the convex apex of the right side of the shell and the convex apex of the left side of the shell. (20-1-3)

Land or landing means to off-load seafood products, including, but not limited to, finfish, shellfish, and crustaceans, for sale or intended sale, or to secure a vessel with the seafood products on board to a shoreside facility where the products may be off-loaded for sale or intended sale. (20-1-3)

Mechanical power means any source of energy or power other than exclusively human power, and includes air-assisted and water-assisted harvest methods.

Non-Resident means a person who does not present proof of Rhode Island residency.

Nonresident landowner means a nonresident citizen of the United States and owner of real estate in Rhode Island as evidenced by deed filed in the Recorder of Deeds office in a Rhode Island town or city hall. (20-1-3)

Ocean quahog means *Arctica islandica*. (20-1-3)

Offload means to begin to remove, to remove, to pass over the rail, or otherwise take away fish from any vessel.

Oyster means American oyster, *Crassostrea virginica* or European oyster, *Ostrea edulis*. (20-1-3)

Peck means one fourth (1/4) of a bushel. (20-1-3)

Person means an individual, firm, co-partnership, association, or private or municipal corporation. (20-1-3; 20-8.1-1)

Polluted area means any shellfish grounds underlying waters examined and found to be unfit for the taking of shellfish for human consumption declared by the Director as polluted areas pursuant to RIGL § 20-8.1-3 and 20-8.1-4. For the purposes of any criminal or civil proceeding instituted under this chapter, a declaration by the Director shall be prima facie evidence of a polluted area. (20-8.1-1)

Port means any city or town with a harbor and docking facilities where vessels can land.

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

Possession limit means the maximum quantity of marine product/species that may be possessed by a vessel or person per specified period of time (i.e., day or week).

Power Hauling means the raising or moving of fishing implements including dredges, rakes, tongs, or other apparatus used to harvest marine organisms from the waters of the state or the underlying sediment.

Resident means an individual who has had his or her actual place of residence and has lived in the state of Rhode Island annually for a continuous period of not less than six (6) months. (20-1-3)

RIGL means Rhode Island General Laws.

RIMFC means the Rhode Island Marine Fisheries Council. (20-10-2)

Sea scallop means *Placopecten magellanicus*. (20-1-3)

Season means a period of time established by regulation during which management rules specific to that period are in effect.

Shellfish means and includes all molluscan species growing in Rhode Island tidal waters, including, but not limited to bay quahog, ocean quahog, blue mussel, oyster, soft-shell clam, bay scallop, surf clam, channeled and knobbed whelk. (20-2.1-3; 20-8.1-1)

Shellfish Dredge means a mechanical device that is towed behind a fishing vessel and whose purpose is to collect shellfish from the sea floor.

Shellfish grounds means all land underlying waters within the rise and fall of the tide and the marine limits of the jurisdiction of the state. (20-8.1-1)

Shellfish harvest tagging area means the area of the waters of the state where shellfish are harvested (refer to <http://www.dem.ri.gov/programs/bnatres/fishwild/shelltag.htm>)

Shoredigging means the taking of shellfish from shallow areas or the intertidal zone of the waters of the State without the use of a vessel, SCUBA gear and when body contact is made with the bottom substrate.

Soft-shell clam means *Mya arenaria*. (20-1-3)

Surf clam means Sea clam, *Spisula solidissima*. (20-1-3)

Take or Taking means the process and each of the activities in that process undertaken to remove the resource from its natural habitat until the time at which possession begins.

Transfer means to convey, pass, or remove something from one person, place, and/or vessel to another.

Tongs means any shellfishing implement constructed with heads attached to stales (handles) and pinned at a pivot point to allow the opening and closing of the basket mouth formed by the two.

Vessel means every description of watercraft, other than a seaplane on the water, used, or capable of being used as a means of transportation on water.

Water-assisted harvest means the attempt to collect aquatic species by using a water pump or pressurized water, or device designed to disturb the substrate, create a vacuum effect or sediment displacement.

Wet storage means the temporary storage of shellfish after removal from growing areas, in the approved classification or in the open status of the conditional approved classification in containers or floats in natural bodies of water or in tanks containing natural or synthetic sea-water; this includes flow-through systems.

7. LICENSE REQUIRED

7.1 **Recreational harvest – R.I. resident:** R.I. residents are not required to obtain a license for the recreational harvest of shellfish. (RIGL 20-6-1)

7.2 **Recreational harvest – non-resident:** A non-resident over the age of twelve (12) years wishing to take or possess shellfish recreationally in Rhode Island waters must obtain shellfish license. (RIGL 20-2-22):

7.2.1 **Annual:** The fee for an annual shellfish license is two hundred dollars (\$200). This license will expire on the last day in February annually.

7.2.2 **14-day:** The fee for a fourteen (14) day tourist license is eleven dollars (\$11). This license is valid for fourteen (14) consecutive days only, including the date of issue, and is limited to one (1) license per person per calendar year.

7.2.3 **Non-resident landowner:** A non-resident landowner may, with proof of residential property 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, obtain an annual, non-commercial, non-resident shellfish license for a fee of twenty-five dollars (\$25). (RIGL 20-2-22(d))

7.3 **Commercial harvest:** See specific requirements and conditions in DEM's "*Commercial and Recreational Saltwater Fishing Licensing Regulations*".

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

7.3.2 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.

7.3.3 Blue Mussel Dredging Permit: A Blue Mussel Dredging Permit issued from the Director is required for the dredging for blue mussels. Applications shall be made annually on forms prescribed by the Director, and may be obtained by contacting the DEM Marine Fisheries, 3 Fort Wetherill Rd, Jamestown, RI 02835 (423-1923). (RIGL 20-6-7)

8. GENERAL PROVISIONS

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

8.2 Shellfish grounds – polluted areas: Shellfish harvesting will be allowed in all waters except those declared by the Director to be polluted based upon water quality considerations pursuant to RIGL Chapter 20-8.1. Information on the current status of waters subject to conditional closures or emergencies due to pollution is available by calling 401-222-2900 and visiting <http://www.dem.ri.gov/programs/benviron/water/shellfish/clos/index.htm>. (RIGL 20-8.1-3)

8.3 Taking or selling of shellfish from polluted areas: No person shall take shellfish from the waters of polluted areas, or knowingly sell shellfish taken from the waters of polluted areas, except pursuant to a transplant program specifically authorized by and conducted under the direct supervision of the Director. In granting permission, the Director shall first obtain the written approval of the Director of the Department of Health as to the suitability and safety for the purposes intended. The possession by any person of shellfish while in a vessel upon the waters of polluted areas between the hours of two (2) hours after sunset and sunrise shall be prima facie evidence that those shellfish were taken by that person in violation of this section. (RIGL 20-8.1-5) (

8.4 Night shellfishing prohibited: The harvesting of shellfish is prohibited during the hours between sundown and sunrise. (RIGL 20-6-23)

8.5 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. (RIGL 20-6-21)

8.6 Conch (whelk) – general provisions:

8.6.1 Mutilation and/or possession of conch meat; cooked or uncooked: Prior to landing of any conchs, no person shall mutilate any cooked or uncooked conch by breaking and removing the meat from the shell or have in his or her possession any part or parts of any uncooked conch so mutilated. In any and all prosecutions under this section, the possession of any part or parts of any cooked or uncooked conch so mutilated shall be prima facie evidence sufficient to convict. All conchs are to be landed whole in the shell.

8.6.2 Unauthorized hauling of conch pots: No person except the Director may haul, unduly disturb, or remove any animal from a conch pot of a person possessing a valid commercial fishing license to take conch, or from a person fishing recreationally for conch, without the written permission of that person.

8.6.3 Unauthorized possession and/or transfer of conch pots: No person except the Director may sell, transfer, or have in his or her possession or control any conch pot, or associated line (warp) and/or buoy, without the written permission of the owner.

8.6.4 Hauling or setting conch pots at night: No person shall haul or unduly disturb any conch pot within the territorial waters of this state between the hours of one (1) hour after sundown and one (1) hour before sunrise.

8.7 Transiting:

8.7.1 During the closure of a Rhode Island state allocated fishery quota, a federally permitted vessel fishing in the Exclusive Economic Zone may traverse Rhode Island state waters for the purpose of landing that species in another state, provided the vessel is in compliance with their federal permit, and the vessel nets are stowed pursuant to RIMFR Part X.

8.7.2 A federally permitted vessel fishing in the Exclusive Economic Zone may traverse Rhode Island state waters for the purpose of landing a species in Rhode Island, provided that the species in possession do not have a state allocated quota that is currently closed, provided the vessel is in compliance with their federal permit, provided the vessel nets are stowed pursuant to RIMFR Part X, and provided that the owner or operator possesses a valid RI Landing License pursuant to DEM's "Commercial and Recreational Saltwater Fishing Licensing Regulations".

9. EQUIPMENT PROVISIONS AND HARVEST METHODS

9.1 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. (20-6-30)

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

9.3 Use of explosives: The use of explosives as a fishing device in the internal and territorial waters of the State of Rhode Island is prohibited.

9.4 Use of devices capable of harvesting shellfish 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 conch 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. (RIGL 20-8.1-6)

9.5 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.

9.6 Method of harvest of oysters, bay quahaugs, soft-shell clams: No person shall dig and/or take any oysters, bay quahaugs, 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 as provided for in these regulations.

9.7 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:

9.7.1 Maximum width measured along a line parallel to the tooth bar: Thirty-one and one-half (31½) inches;

9.7.2 Maximum tooth length: Four and one-half (4½) inches;

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

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

9.7.5 Except as required for safety or to avoid property loss, no vessel involved in the harvest of bay quahaugs 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.

9.8 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:

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

9.8.2 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 (1) inch by two and one half (2½) inches.

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

9.9 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:

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

9.9.2 Crossbars or reinforcement that will form a rectangle shall not be less than one (1) inch by two and one half (2½) inches.

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

9.10 Quahaug diving basket construction: No commercially licensed diver shall take or attempt to take quahaugs from the waters of the State of Rhode Island with a diver's quahaug harvesting basket, bag, or combination of basket and bag, or similar device not meeting the following dimensions:

9.10.1 Bar spacing: Not less than one (1) inch by two and one half (2½) inches. A tolerance of one sixteenth (1/16) inch is allowed.

9.10.2 Bag mesh on the quahaug harvesting basket: Not less than two (2) inches when measured on the stretch (from inside of knot to inside of the knot). A tolerance of one eighth (1/8) inch 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.

9.11 Dredging of bay scallops:

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

9.11.2 Maximum width of dredge blades: Twenty eight (28) inches.

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

9.11.4 Each single dredge shall be towed and hauled aboard the registered vessel individually. All oysters, soft-shell clams, or bay quahaugs shall be immediately returned to the waters from which they were taken. (RIGL 20-6-7; 20-6-19)

9.11.5 Areas where bay scallop dredging is prohibited: The use of bay scallop dredges is prohibited in closed areas of Shellfish Management Areas, as identified in these regulations.

9.12 Dredging of blue mussels: When dredging for blue mussels, all bay scallops, oysters, or bay quahaugs shall be immediately returned to the waters from which they were taken. (20-6-7)

9.13 Dredging of surf clams and ocean quahaugs:

9.13.1 Surf clam gear restrictions:

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

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

9.13.2 Areas allowed: Dredging for surf clams by R.I. residents is allowed only in waters southerly of a line extending from Church Point, in the town of Little Compton, to Flint Point on Aquidneck Island, southerly of the coastline of Aquidneck Island, southerly of a line extending from Castle Hill Point on Aquidneck Island, to Southwest Point of Conanicut Island to Bonnet Point, Narragansett, easterly of the coastline of the town of Narragansett, southerly of the coastline of the towns of Narragansett, South Kingstown, and Charlestown, and westerly to the Connecticut line. For the purpose of this section, "coastline" refers to the land facing the open sea.

9.13.3 Tagging of cages: Shellfish cages must be tagged in accordance with the United States Food and Drug Administration/RIDOH regulations (National Shellfish Sanitation Program manual Part II) before being off-loaded in Rhode Island.

9.14 Dredging for sea scallops:

9.14.1 Maximum dredge size for a vessel in possession of sea scallops: Ten and one-half (10½) feet.

9.14.2 Minimum dredge ring size: Four (4) inches.

9.14.3 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 (10) inch square or diamond mesh.

10. MINIMUM SIZES

10.1 Bay quahaug: One inch (1") shell thickness (hinge width). (20-6-11)

10.2 Soft-shell clam: Two inches (2") taking the maximum shell diameter. (20-6-11)

10.3 Oyster: Three (3) inches measured parallel to the long axis of the oyster. (20-6-11)

10.4 Bay scallop: 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. (20-6-17)

10.5 Surf clam: Five (5) inches measured parallel to the long axis of the clam.

10.6 Sea scallop: Three and one-half (3½) inches, 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.

10.7 Conch:

Year	Shell Width	Shell Length
2014	2-7/8" (73 mm)	5-1/8" (130.1 mm)
2015	3" (76.2 mm)	5-3/8" (136.5 mm)

11. SEASONS

11.1 Bay quahaug, soft-shell clam, blue mussel, sea scallop, conch, surf clam, and ocean quahaug:

11.1.1 Open daily in waters other than Shellfish Management Areas, unless specifically closed due to pollution or other management purposes.

11.2 Oyster: September 15 through May 15 annually.

11.3 Bay scallop:

11.3.1 Dip-netting from a boat: First Saturday in November through December 31.

11.3.2 Dredging: December 1 through December 31.

12. DAILY POSSESSION LIMITS (IN WATERS OTHER THEN SHELLFISH MANAGEMENT AREAS)

12.1 Recreational – R.I. resident:

12.1.1 Bay quahaug, soft-shell clam, surf clam, blue mussel, and oyster: One half (1/2) bushel/person/day. (RIGL 20-6-1)

12.1.2 Bay scallop: One (1) bushel/person/day. (RIGL 20-6-1)

12.1.3 Conch: One half (1/2) bushel per resident per calendar day; or a maximum of one (1) bushel per vessel per calendar day.

(A) Conch pot limit: Five (5) conch pots in the water at any one time.

12.1.4 Sea scallop: Forty (40) pounds shucked; or five (5) bushels of in-shell scallops per vessel per calendar day.

12.2 Recreational – Licensed non-resident:

12.2.1 Bay quahaug, soft-shell clam, surf clam, blue mussel, and oyster: One (1) peck/person/day. (RIGL 20-6-10)

12.2.2 Bay scallop: The harvest or possession of Bay scallops by non-residents is prohibited.

12.2.3 Conch: The harvest or possession of conchs by non-residents is prohibited.

12.2.4 Sea scallop: Forty (40) pounds shucked; or five (5) bushels of in-shell scallops per vessel per calendar day.

12.3 Commercial:

12.3.1 Bay quahaug: Twelve (12) bushels/person/day. (RIGL 20-6-10)

12.3.2 Soft-shell clam: Twelve (12) bushels/person/day. (RIGL 20-6-10)

12.3.3 Oyster: Three (3) bushels/person/day. (RIGL 20-6-10)

12.3.4 Bay scallop: Three (3) bushels/person/day, with a maximum of three (3) bushels/vessel/day. (RIGL 20-6-16)

12.3.5 Surf clam: Two hundred (200) bushels/person/day.

12.3.6 Ocean quahaug: Twenty six (26) cages or eight hundred thirty two (832) bushels.

(A) Dredged ocean quahaugs: Thirty (30) bushels for any person licensed to take ocean quahaugs by dredge, rake, or other apparatus operated by power or hauled by a power boat. (RIGL 20-6-12)

12.3.7 Sea scallops: For non-federally permitted vessels, four hundred (400) pounds of shucked; or fifty (50) bushels of in-shell scallops per vessel per calendar day.

12.3.8 Conch: Thirty five (35) bushels per vessel per calendar day.

(A) Commercial conch pot limit: Maximum of three hundred (300) conch pots per licensee in the water at any one time.

13. SHELLFISH MANAGEMENT AREAS – DESCRIPTIONS, SEASONS, AND DAILY POSSESSION LIMITS

13.1 Greenwich Bay, Conimicut Point, Potowomut, High Banks, Bissel Cove/Fox Island, Mill Gut, Bristol Harbor, Kickemuit River, Jenny's Creek, Sakonnet River, Pt. Judith Pond, Potter Pond, Ninigret (Charlestown) Pond, Quonochontaug Pond, and Winnapaug Pond have been declared Shellfish Management Areas pursuant to RIGL 20-3-4.

13.2 Shellfish Management Areas may have additional regulations specific to the Management Area. Refer to each Management Area listed below.

13.2.1 In Shellfish Management Areas, shoredigging is open daily at reduced Shellfish Management Areas possession limits, unless closed due to pollution or other management purposes.

13.3 Daily possession limits:

13.3.1 Recreational – R.I. resident:

(A) Bay quahaug, soft-shell clam, surf clam, blue mussel, and oyster: One (1) peck/person/day.

(B) Bay scallop: One (1) bushel/person/day.

(C) Conch: One half (1/2) bushel per resident per calendar day; or if a vessel with more than one (1) resident onboard is used, a maximum of one (1) bushel per vessel per calendar day.

(1) Conch pot limit: Five (5) conch pots in the water at any one time.

13.3.2 Recreational – licensed non-resident:

(A) Bay quahaug, soft-shell clam, surf clam, blue mussel, and oyster: One half (½) peck/person/day.

(B) Bay scallop: The harvest or possession of Bay scallops by non-residents is prohibited.

(C) Conch: The harvest or possession of Conch by non-residents is prohibited.

13.3.3 Commercial:

(A) Bay quahaug, soft-shell clam, blue mussel, surf clam and oyster: Three (3) bushels/person/day; maximum of six (6) bushels/vessel/day;

(1) A maximum of two (2) licensed shellfishers per vessel is allowed.

(2) Possession limit for shore-digging in Greenwich Bay Management Area sub-areas 1 and 2: The possession limit is three (3) bushels/person/day whenever GB sub-area 1 is open to boat harvest, but one (1) peck/person/day holder whenever GB sub-area 1 is not open to boat harvest.

(B) Bay scallop: Three (3) bushels/person/day; maximum of six (6) bushels/vessel/day.

(1) A maximum of two (2) licensed shellfishermen per vessel is allowed.

(C) Conch: Thirty five (35) bushels per vessel per calendar day.

(1) Commercial conch pot limit: Maximum of three hundred (300) conch pots per licensee in the water at any one time.

13.3.4 Temporary possession limit: The Director may establish a reduced possession limit in any Shellfish and Marine Life Management Area for a period not to exceed sixty (60) days. The following reduced possession limit for bay quahaugs, soft-shell clams, surf clams, and oysters shall apply in any area so designated:

(A) Recreational - resident: One (1) peck/person/day.

(B) Recreational – licensed non-resident: One half (½) peck/person/day.

(C) Commercial: One (1) bushel/person/day.

13.5 **Greenwich Bay (GB):** Described as the waters west of a line between the flagpole at the Warwick Country Club and the end of Sandy Point on the Potowomut Shore, in the towns of East Greenwich and Warwick.

13.5.1 GB sub-area 1: Described as the waters east of a line between the DEM range marker located at the end of Neptune Street in Chepiwanoxet to the DEM range marker located on Cedar Tree Point, and north of a line between the far northeastern section of Chepiwanoxet Point and the westernmost flagpole on Promenade Street, Old Buttonwoods.

13.5.2 GB sub-area 2: Described as the waters west of a line between Sally Rock Point and the westernmost flagpole on Promenade Street, Old Buttonwoods; and south of a line between the far northeastern section of Chepiwanoxet Point and the westernmost flagpole on Promenade Street, Old Buttonwoods.

(A) Commercial boat harvest schedule for GB sub-areas 1 and 2: GB sub-areas 1 and 2 shall be subject to an annual December harvest schedule established by the Director, pursuant to recommendations developed by the DFW and the RIMFC. Said recommendations shall be submitted to the Director at least sixty (60) days prior to the first scheduled opening. The December schedule may include up to forty-eight (48) hours of permitted shellfishing, spread over any number of days during the month, excluding December 25.

(B) If weather or water quality conditions during the month of December prevent this area from opening on two or more scheduled days, the DFW may modify the December schedule to allow for additional hours or days of permitted shellfishing, provided that:

(1) The proposed modification(s) is/are submitted in writing to the DFW by a member of the RIMFC;

(2) The total number of hours of permitted shellfishing for the month does not exceed forty-eight (48) hours; and

(3) The re-scheduled hours or days are announced publicly (i.e., listserve) by the DFW with at least seventy-two (72) hours of advance notice.

(C) Commercial boat harvest schedule for GB sub-areas 1 and 2:

(1) January 6, 2014 through April 30, 2014: 8:00 A.M. to 12:00 P.M. Noon on Mondays, Wednesdays, and Fridays.

(D) Default commercial boat harvest schedules for GB sub-areas 1 & 2: If no action is taken to establish specific harvest schedules annually, the following schedule shall be in effect by default:

(1) 8:00 A.M. to 12:00 P.M. on Mondays, Wednesdays, and Fridays, beginning on the second Wednesday of December and continuing through the last Friday in April, excluding December 25 and January 1 annually.

(E) GB Area 3: Described as the waters east of a line between Sally Rock Point and the westernmost flagpole on Promenade Street, Old Buttonwoods, and west of a line between the flagpole at the Warwick Country Club and the end of Sandy Point on the Potowomut Shore.

(1) Boat harvest schedule: Open daily.

13.6 **Conimicut Point:** Described as the waters south of a line running from the pole (Latitude: 41° 43' 2.93" North, Longitude: 71° 21' 27.68" West) on Conimicut Point to the center of the Old Tower at Nayatt Point; and north of a line from the western most extension of Samuel Gorton Avenue in the town of Warwick, and the southern most extension of Bay Road in the town of Barrington.

13.6.1 The reduced Shellfish Management Area possession limit applies only to soft-shell clams.

13.7 **Potowomut:** Described as the waters at the mouth of Greenwich Bay south of a line between the flagpole at the Warwick Country Club to the seaward end of Sandy Point and north of a line between and the seaward end of Pojac Point to buoy "G1" (Round Rock) to the Warwick Lighthouse, including all the waters of the Potowomut River seaward of the Forge Road Spillway, in the towns of East Greenwich and Warwick.

13.7.1 Area A: Described as the area west of a line between the seaward end of Sandy Point and buoy "G1" (Round Rock) and north of a line between the seaward end of Pojac Point to buoy "G1" (Round Rock).

(A) Harvest schedule: Open daily.

13.7.2 Area B: Described as the triangular area east of a line between the seaward end of Sandy Point and buoy "G1" (Round Rock) and west of a line between the flagpole at the Warwick Country Club and buoy "G1" (Round Rock) and south of a

line between the flagpole at the Warwick Country Club to the seaward end of Sandy Point. Area "B" is closed to shellfishing until further notice.

(A) Harvest schedule: This area is closed to shellfishing, except for the harvest of bay scallops by dip-netting from a boat during the open season for bay scallops.

13.7.3 Area C: Described as the area east of a line between the flagpole at the Warwick Country Club and buoy "G1" (Round Rock) and north of a line from buoy "G1" (Round Rock) to the Warwick Lighthouse.

(A) Harvest schedule: Open daily.

13.8 High Banks: Described as the waters of the upper west passage south of a line between the seaward end of Pojac Point to the Round Rock buoy "G1" and north of a line from the seaward end of the fence between the former Davisville Navy property and Pettee Street in the Mount View section of North Kingstown to "N6" buoy located mid-bay west of Prudence Island. The area is bounded on the east by a line projecting from the easternmost end of Pier 2 at Davisville to the Round Rock buoy "G1" and is bounded to the west by the shore, in the town of North Kingstown.

13.8.1 Harvest schedule: Open daily

13.9 Bissel Cove/Fox Island: Described as the waters of Bissel Cove in its entirety and adjacent waters of Narragansett Bay south of a line between Pole #275 at the corner of Waldron and Seaview Avenues and the southwestern most point of Fox Island (south of the cable area), west of a line from the southwestern most point of Fox Island to the northern most point of Rome point, in the town of North Kingstown.

13.9.1 Boat harvest schedule:

(A) Beginning the 2nd Wednesday of December through April 30, 2014: Open daily for the harvest of bay quahaugs, soft-shell clams, and blue mussels.

(B) May through November annually: Closed.

(C) Default harvest schedule: If no action is taken to establish specific harvest schedules annually, the following schedule shall be in effect by default:

(1) Between 8:00 A.M. and 12:00 Noon on Mondays, Wednesdays, and Fridays, beginning on the second Wednesday of December and continuing through the end of April.

13.9.2 Oyster harvest moratorium: The harvest and possession of oysters in the Bissel Cove/Fox Island Shellfish Management Area is prohibited until September 15, 2015.

13.10 **Mill Gut:** Described as the waters of Mill Gut, lying south of the northern-most bridge on Colt Drive, in the town of Bristol.

13.10.1 **Harvest schedule:** Open for the harvesting of bay quahaugs, soft-shell clams, blue mussels, and oysters only between the second Wednesday in December and April 30 annually.

13.11 **Bristol Harbor:** Described as the waters of Bristol Harbor southerly of a line between CRMC permitted dock #419 located at 163 Poppasquash Road (so called Rockwell's Dock) to the northwest corner of the Rockwell Pier municipal parking lot in Bristol Harbor, and north of a line between CRMC Permitted Dock # 1601 at the boat house to the rear of 363 Poppasquash Road (so called Johnson's Dock) and the northwest corner of the Coast Guard Dock in Bristol Harbor. The area is bordered on the west by the three (3) foot contour line along the shore between Dock #419 and Dock # 1601 and on the east by the existing pollution line.

13.11.1 **Boat harvest schedule:**

(A) **December 2013:** Closed.

(B) **Beginning January 3, 2014:** Open between 8:00 A.M. and 12:00 P.M. Noon on Mondays, Wednesdays, and Fridays.

(C) **February 1 through April 30, 2014:** Open daily.

(D) **May through November annually:** Closed.

(E) **Default harvest schedule:** If no action is taken to establish specific harvest schedules annually, the following schedule shall be in effect by default:

(1) Between 8:00 A.M. and 12:00 Noon on Mondays, Wednesdays, and Fridays, beginning on the second Wednesday of December and continuing through the end of April. Harvest is prohibited on December 25 and January 1 annually.

13.12 **Kickemuit River:** Described as the waters of the Kickemuit River north of a line connecting nun buoy 6 and can buoy 1 at Bristol Narrows.

13.13 **Jenny's Creek:** Described as the waters of Prudence Island including Jenny's Creek north of the inlet at Pine Hill Cove.

13.13.1 **Harvest schedule:** Closed to shellfishing.

(A) **Exception:** The area is open for the harvest of bay scallops by dip-netting from a boat during the open season for bay scallops.

13.14 **Sakonnet River:** Described as the waters north of a line from Sachuest Point to Sakonnet Light. The northern boundary is an east/west line across the Sakonnet

River lying one quarter (1/4) mile south of the pipeline found just south of Black Point, so-called; the western boundary is a north/south line running from Flint Point to Taggart's Ferry, so-called, in the town of Tiverton.

13.14.1 The possession limit for surf clams is two hundred (200) bushels/vessel/day.

(A) A bycatch of one (1) bushel of bay quahaugs for each ten (10) bushels of surf clams, not to exceed twelve (12) bushels of bay quahaugs, is allowed per vessel.

13.15 **Point Judith Pond:** Described as the waters of Point Judith Pond, including East Pond, in their entirety, in the towns of South Kingstown and Narragansett.

13.16 **Potter Pond:** Described as the waters of Potter Pond in its entirety, west of the bridge at Succotash Road, in the town of South Kingstown.

13.16.1 **Closed area:** The area within Sycamore Cove defined as north of a line running easterly from a special DEM marker located at N 41 degrees 23 minutes 2.0 seconds, W 71 degrees 32 minutes 13.0 seconds; to a second special DEM marker located at N 41 degrees 23 minutes 1.0 second, W 71 degrees 31 minutes 59.5 seconds; and bound by the northern pond shoreline between the special DEM markers.

(A) **Exception:** The area is open for the harvest of bay scallops by dip-net from a boat during the open season for bay scallops.

13.17 **Ninigret (Charlestown) Pond:** Described as the waters of Ninigret Pond in its entirety, in the town of Charlestown.

13.17.1 **Closed area:** All waters within an area formed by the following points: from ("A" N 41 degrees 20 minutes 41.7 seconds W 71 degrees 41 minutes 24.3 seconds, the northeast corner of the Ninigret Conservation Area parking lot) following the shoreline to ("B" N 41 degrees 20 minutes 49.6 seconds W 71 degrees 41 minutes 4.6 seconds, a DEM sign approximately 500 meters eastward of "A"); from "B" northward to ("C" N 41 degrees 21 minutes 31.0 seconds W 71 degrees 41 minutes 22.2 seconds, the Lavin's Landing Marina launching ramp); from "C" following the shoreline to ("D" N 41 degrees 21 minutes 10.1 seconds W 71 degrees 41 minutes 40.9 seconds, a DEM sign on the westernmost end of Reeds Point); from "D" southward to "A".

(A) **Exception:** The area is open for the harvest of bay scallops by dip-net from a boat during the open season for bay scallops.

13.18 **Quonochontaug Pond:** Described as the waters of Quonochontaug Pond in its entirety, in the towns of Charlestown and Westerly.

13.18.1 **Closed areas:**

(A) Western closure area: Described as the waters south of a line running easterly from the special DEM marker at the end of Quahaug Point (N 41 degrees 20 minutes 0.0 seconds, W 71 degrees 44 minutes 39.5 seconds), to a second special DEM marker at the northern end of Nope's Island (N 41 degrees 20 minutes 5.0 seconds, W 71 degrees 44 minutes 1.0 second). The area will be bordered on the west by a line running south from Quahaug Point to a special DEM marker located on the barrier beach shoreline (N 41 degrees 19 minutes 51.5 seconds, W 71 degrees 44 minutes 40.0 seconds). The southern boundary will be the shoreline between the barrier beach special DEM marker and Nope's Island special DEM marker.

(B) Eastern closure area: Described as the waters east of a line running southerly from the special DEM marker located at N 41 degrees 21 minutes 1.1 seconds W 71 degrees 42 minutes 33.4 seconds, to a second special DEM marker located at N 41 degrees 20 minutes 41.0 seconds W 71 degrees 42 minutes 44.1 seconds; and bound by the eastern pond shoreline between the special DEM markers.

(1) Exception: The area is open for the harvest of bay scallops by dip-net from a boat during the open season for bay scallops.

13.18.2 The harvest and possession of oysters in Quonochontaug Pond is prohibited until September 15, 2016.

13.19 **Winnapaug Pond**: Described as the waters of Winnapaug Pond in its entirety, in the town of Westerly.

13.19.1 Closed Area: Described as the waters north of a line running easterly from a special DEM marker at Big Rock Point (N 41 degrees 19 minutes 49.0 seconds, W 71 degrees 47 minutes 57.0 seconds), to the special DEM marker at the southern end of Larkin's Island (N 41 degrees 19 minutes 55.0 seconds, W 71 degrees 47 minutes 5.0 seconds),. The area will be bordered on the east by a line running northwesterly the Larkin's Island special marker to a special DEM marker adjacent to the end of Bayside Avenue (N 41 degrees 19 minutes 58.0 seconds, W 71 degrees 47 minutes 9.0 seconds). The northern boundary is the shoreline between the Bayside Ave special DEM marker and the Big Rock Point special DEM marker.

(A) Exception: The area is open for the harvest of bay scallops by dip-net from a boat during the open season for bay scallops.

14. WET STORAGE OF SHELLFISH

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

15. COMMERCIAL HANDLING OF SHELLFISH

15.1 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.

15.2 Containers used for storing shell stock must be clean.

15.3 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.

15.4 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.

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

15.6 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.

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

15.8 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.

15.9 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.

RULE 16. COMMERCIAL TAGGING OF SHELLFISH

16.1 Commercial shellfishermen must place any and all shellfish taken by them (except those shellfish returned to the waters of the harvest area) into containers, and must tag each and every container with a "harvester tag" conforming to the requirements of this section, prior to the following:

16.1.1 The fisherman leaves the approved waters of the harvest area (identified on the RI Shellfish Harvest Area Tagging Map, Shellfish Management Area or the aquaculture site identified by the CRMC Assent number) in which the shellfish were taken;

16.1.2 The shellfish are removed from the vessel; or

16.1.3 The shellfish are offered for sale.

16.2 The harvester tag shall be durable, waterproof, and sanctioned by the R.I. 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 location as identified on the R.I. Shellfish Harvest Area Tagging Map; the shellfish management area; the aquaculture site identified by the CRMC Assent number; the type (species) of shellfish; and, the approximate quantity of shellfish.

16.3 Each tag shall also carry the following statement in bold capitalized type "THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY OR IS RETAGGED AND THEREAFTER KEPT ON FILE FOR 90 DAYS"

16.4 Commercial shellfishermen shall not place shell stock harvested from more than one 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.

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

16.5.1 When shell stock are harvested from one 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

16.5.2 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.

RULE 17. COMMERCIAL TEMPERATURE CONTROL OF SHELLFISH

17.1 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.

17.2 The maximum allowable time between the harvest of shell stock and delivery to a dealer shall be twenty hours. Possession of shell stock in excess of 20 hours is prohibited.

17.3 Ocean quahaugs and surf clams are exempt from temperature control requirements.

Rule 18. SHELLFISH TRANSPLANT REGULATIONS

18.1 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 economical benefit of the state after all necessary safeguards to insure their cleanliness. (RIGL §20-6-26)

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

18.3 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.

18.4 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.

18.5 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.

18.6 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.

18.7 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.

18.8 Violation of any of these provisions shall be punishable by a fine of up to \$500 and/or up to 30 days in jail.

18.9 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. (RIGL 20-6-29)

18.10 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. (RIGL 20-6-27)

19. VIOLATIONS FOR NON-COMPLIANCE

19.1 If the DFW and/or the Chief of the Division of Law Enforcement determine that there has been non-compliance with the provisions of these regulations or a permit agreement, the owner and/or operator of the permitted vessel shall be advised of such determination and the specific grounds therefore in writing by delivery of same by certified mail or by personal service upon the owner or operator in compliance with the requirements set out in Rule 4 of the Rhode Island Superior Court Rules of Civil Procedure. The determination shall specifically include notice that an opportunity for an impartial hearing is available before the Administrative Adjudication Division pursuant to R.I. Gen. Laws Chapter 42-17.7 relative to either or both the finding that sufficient evidence exists of non-compliance with the provisions of these regulations or the permit agreement as well as the termination of the permit and or the imposition of a penalty pursuant to RIGL 20-1-16.

20. PENALTIES

20.1 Judicially imposed penalty for violations: Unless otherwise specifically provided, the violation of any law or rule or regulation relating to wild animals, wild birds, lobsters and fish, marine, freshwater and anadromous fisheries and shellfisheries shall be a misdemeanor, punishable by a fine of not more than five hundred dollars (\$500) or imprisonment for up to ninety (90) days, or both (RIGL §20-1-16).

20.2 Additionally, a person may be subject to the imposition of a administrative penalty pursuant to DEM's *"Rules and Regulations Governing the Suspension/Revocation of Commercial Marine Fisheries, Shellfish Buyer, Lobster Dealer, Finfish Dealer, and Multi-purpose Dealer, licenses issued pursuant to Title 20 of RIGL "Fish and Wildlife"*.

21. APPEALS

21.1 Denial of a license or permit: Persons denied a license or permit may request an appeal as provided by RIGL Chapter 42-17.7 and pursuant to DEM's *"Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters"*

21.2 Enforcement Action: Any person affected by a decision of the Director for an enforcement action pursuant to these regulations may file and appeal in accordance with RIGL Chapter 42-17.7 and DEM's *Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters*.

22. EFFECTIVE DATE

The foregoing rules and regulations "Rhode Island Marine Fisheries Regulations – Shellfish", after due notice, are hereby adopted and filed with the Secretary of State this 22nd day of July, 2014 to become effective 20 days from filing, unless otherwise indicated below.

Janet L. Coit, Director
Department of Environmental Management

Notice Given: 06/17/2014
Public Hearing: N/A
Filing date: 07/22/2014
Effective date: 08/11/2014

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