



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

BUREAU OF NATURAL RESOURCES
FISH AND WILDLIFE
&
LAW ENFORCEMENT

RHODE ISLAND MARINE FISHERIES STATUTES AND REGULATIONS

Part V Bay Scallops



September 29, 2010

AUTHORITY: These regulations are adopted pursuant to Chapters 42-17.1, 42-17.6, 20-4, 20-6, 20-8, 20-8.1, 20-9, and 20-10 as well as Sections 20-1-2, 20-1-4, and 20-3-2 thru 20-3-6, and in accordance with Chapter 42-35, of the Rhode Island General Laws of 1956, as amended.

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PURPOSE

The purpose of these rules and regulations is to supplement and simplify and/or clarify existing regulations in order to more efficiently manage the marine resources of Rhode Island.

AUTHORITY

These rules and regulations are promulgated pursuant to Chapter 42.17.1, 42-17.6, 20-4, 20-6, 20-8, 20-8.1, 20-9, and 20-10 as well as Sections 20-1-2, 20-1-4, and 20-3-2 thru 20-3-6, and in accordance with Chapter 42-35, Administrative Procedures, of the General Laws of 1956, as amended.

ADMINISTRATIVE FINDINGS

Rules and regulations are based upon the need to modify existing regulations.

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.

DEFINITIONS

See Rhode Island Marine Statutes and Regulations, Part I, ' 1.3.

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.

SUPERSEDED RULES AND REGULATIONS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all previous rules and regulations, and any policies regarding the administration and enforcement of Part V shall be superseded.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.

R.I. Marine Fisheries Statutes and Regulations PART V - Bay SCALLOPS

5.1 Licenses

5.1.1 Residents: are not required to obtain a license, provided they do not exceed the non-commercial daily catch limit for bay scallops, and provided that such scallops shall not be offered for sale. (ref RIGL 20-6-1) [Penalty - Part 6.6; (RIGL 20-6-13)]

5.1.2 Non-residents: R.I. General Law §20-2-22 does not provide for a non-resident bay scallop license. Therefore, the DEM currently interprets that omission as a prohibition on non-resident bay scalloping. RIMFC REGULATION [Penalty - Part 6.6; (RIGL 20-6-13)] (ref RIGL 20-6-1)

5.1.3 Commercial License: The issuance of license or endorsement to commercially harvest bay scallops and offer such scallops for sale are governed by RIDEM Rules and Regulations Governing the Management of Marine Fisheries and shall be issued only to a resident of Rhode Island. (ref RIGL 20-2-25 and 20-2-28.1) [Penalty - Part 1.16; RIGL (20-1-16)]

5.2 Daily Catch Limits

5.2.1 Residents: A resident of this State may take not more than one (1) bushel of bay scallops per day without a license, provided that such scallops shall not be sold or offered for sale. ref (RIGL 20-6-1) [Penalty - Part 6.6; (RIGL 20-6-13)]

5.2.2 Commercial License: A person holding a license or endorsement to commercially harvest bay scallops and offer such scallops for sale may take in any one (1) day not more than three (3) bushels of bay scallops, including shells, per day/per boat/per license from the waters of the State. ref RIGL 20-6-16; RIMFC REGULATION [Penalty - Part 1.16 or 6.6; (RIGL 20-1-16 or 20-6-13)]

5.3 Bay Scallops - Open Season -- Unless otherwise specified in regulations adopted by the Department of Environmental Management, the open season for taking bay scallops from the waters of the state shall be between sunrise of the first Saturday of November and sunset on the last day of December annually. Any person taking bay scallops in violation of this Section shall upon conviction be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) or imprisoned not more than thirty (30) days, for each offense. (RIGL 20-6-3)

5.4 Taking and Possession of Seed Bay Scallops -- Every person taking any seed bay scallops, and failing to restore them as soon as possible to their natural beds in the water from which taken, shall be fined not less than twenty dollars (\$20) nor more than

one hundred dollars (\$100) or be imprisoned not exceeding thirty (30) days, or both, for each offense. For the purpose of this section, a “seed bay scallop” 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 scallop being less than one (1) year old. (RIGL 20-6-17) [Penalty - (RIGL 20-6-17)]

5.5 Transplanting of Seed Bay Scallops --The Director of Environmental Management may conduct bay scallop transplant programs as may be appropriate to enhance bay scallop stock, seed depleted areas, and further the bay scallop harvest in the State. (RIGL 20-6-22)

5.6 Sale of Wild Harvest Bay Scallops during the Closed Season -- Any person offering for sale any bay scallops other than during the open season for taking bay scallops shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each quart offered for sale, or be imprisoned not exceeding thirty (30) days, or both; provided, however, it shall be lawful to have in possession or offer for sale frozen scallops legally taken. (RIGL 20-6-18) [Penalty - Part 5.5; (RIGL 20-6-18)]

5.7 Opening Shellfish on Water -- No person shall possess the meats of more than six (6) shellfish while shellfishing on the waters of the State or throw shells of open bay scallops onto the bay scallop beds. (RIGL 20-6-21) [Penalty - Part 6.6; (RIGL 20-6-13)]

5.8 Bay Scallop Harvest Methods

5.8.1 Harvesting by Dip-Net -- The use of all methods for harvesting bay scallops except dip-netting from a boat will be prohibited until sunrise, the first day of December, annually.

5.8.2 Areas Where Dredging is Prohibited -- The use of scallop dredges is prohibited at all times in established shellfish management closures zones identified in “Part IV Shellfish” and listed below:

Winnapaug Pond (see 4.12.2), Quonochontaug Pond (see 4.12.3), Ninigret Pond (see 4.12.4), Potter Pond (see 4.12.5), Potowomut Management Area “C” (see 4.27), and Jenny’s Creek (see 4.29).

5.8.3 Number, Size, and Handling of Dredges. Unless otherwise specified by regulation of the Department of Environmental Management, no person engaged in the taking of bay scallops shall use more than six (6) single dredges, the blades of which shall not be more than twenty eight inches (28") in width and the bag to be used shall not be more than thirty-six inches (36") in length. Every single dredge shall be towed and hauled aboard the registered boat individually. (RIGL 20-6-19) [Penalty - Part 6.6; (RIGL 20-6-13)]

5.8.4 Use of Dredges -- Except as hereinafter provided and unless otherwise specified by regulation of the Department of Environmental Management, no person shall take any bay scallops, oysters, bay quahaugs, or soft-shell clams from the waters of this State by dredges, rakes, or other apparatus operated by mechanical power or hauled by power boats. No licensed person shall cast, haul, or have overboard any dredges while fishing for bay scallops, oysters, bay quahaugs, or soft-shell clams from the free and common fisheries of this State, nor shall any licensed boat be used for fishing bay scallops, oysters, soft-shell clams, or bay quahaugs with dredges, except as provided in this section, provided that any person having a license issued under this Title for the taking of bay scallops may use a dredge or dredges, not exceeding six (6) in number nor exceeding twenty-eight inches (28") each in width, for that purpose, provided that the licensee shall immediately return all oysters, soft-shell clams, or bay quahaugs caught by the licensee to the waters from which they were taken. Any licensed boat may be used in dredging for mussels by the licensee of that boat, the licensee having first obtained a permit from the Director of Environmental Management allowing the licensee so to do; provided the licensee, while dredging for mussels under the permit granted the licensee by the Director, shall immediately return all bay scallops, oysters, scallops, or bay quahaugs caught by him or her to the waters from which they were taken. The fact of any licensed person being found with bay scallops, oysters, scallops, or bay quahaugs in his or her possession while dredging for mussels shall be prima facie evidence that person was fishing in violation of the provisions of this Chapter and shall be subject to the penalties and fines imposed thereby. Any resident dredging for surf clams or skimmers, shall not be in violation of this Section if that dredging is done southerly of the coastline of Little Compton, 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. (RIGL 20-6-7) [Penalty - Part 6.6 (RIGL 20-6-13)]

5.8.5 Towing of Dredge during Closed Season. – Except as provided, any person who tows a scallop dredge in the waters of the State during the season closed to the taking of bay scallops shall, upon conviction, be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) or imprisoned not exceeding (30) days, or both, for each offense. (RIGL 20-6-20)

5.8.6 Registration of Boats and Display of Numbers -- No boat shall be used in the taking of quahaugs by dredge or the commercial taking of bay scallops unless that boat has been registered with the Director of Environmental Management. Each registered boat shall be issued a certificate of registration and assigned a number, which number shall be displayed on a flat surface in a

conspicuous place upon the port side while the boat is engaged in taking quahaugs or scallops. (RIGL 20-6-4) [Penalty - Part 6.6 (RIGL 20-6-13)]

5.8.7 Registered Boat Operated Only by Licensee -- Each boat registered pursuant to § 20-6-4 shall be operated only by the person to whom that boat was registered, provided that person is duly licensed for the activity engaged in. Each boat so registered and used shall be limited, no matter how many persons are on board, to the catch limit established for one (1) licensee. (RIGL 20-6-5) [Penalty - Part 6.6 (RIGL 20-6-13)]

RIMF REGULATION [Penalty - Part 3.3; (RIGL 20-3-3)]

Rule 8. EFFECTIVE DATE

The foregoing rules and regulations Rhode Island Marine Statutes and Regulations, after due notice, are hereby adopted and filed with the Secretary of State this 29th day of September, 2010 to become effective 20 days from filing, unless otherwise indicated, in accordance with the provisions of Chapter 42.17.1, 42-17.6, 20-4, 20-6, 20-8, 20-8.1, 20-9, and 20-10 as well as Sections 20-1-2, 20-1-4, and 20-3-2 thru 20-3-6, of the General Laws of Rhode Island of 1956, as amended.

W. Michael Sullivan, PhD
Director, Department of Environmental Management

Notice Given: N/A
Public Hearing: N/A

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