



Paul J. Diodati
Director

Commonwealth of Massachusetts

Division of Marine Fisheries

251 Causeway Street, Suite 400

Boston, Massachusetts 02114

(617)626-1520

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Deval Patrick
Governor

Timothy P. Murray
Lt. Governor

Richard K. Sullivan, Jr.
Secretary

Mary B. Griffin
Commissioner

May 23, 2013

SELECTMEN TOWN OF CHILMARK
P.O. BOX 119
CHILMARK, MA 02535

MAY 28 2013

Permit Conditions:

Commercial Permit Conditions Pertaining to the Harvest of Oysters to Minimize Risk from *Vibrio parahaemolyticus*

In response to federal public health mandates to minimize the risk associated with *Vibrio parahaemolyticus* (*Vp*) related to the consumption of raw oysters, the Division of Marine Fisheries has amended the *Vp* control plan for 2013 by re-establishing permit conditions from 2012 and including some substantial amendments. These conditions seasonally govern the activities of commercial oyster harvesters operating in Massachusetts waters and the seafood dealers (primary buyers) that purchase the raw oysters from commercial harvesters. These permit conditions have the force of law pursuant to M.G.L. c. 130 § 80 and 322 CMR § 7.01(7)

The plan and these permit conditions affect the harvest of wild oysters from the public fishery by commercial shellfish permit holders in the Town of Wellfleet and from all aquaculture operations within the Commonwealth of Massachusetts. The plan requires icing by harvesters immediately upon landing and subsequently the primary buyer must cool the oysters to $\leq 50^{\circ}\text{F}$ within 10 hours after the time of harvest, or in the case of intertidal harvest, when the oysters become exposed to the air, as indicated on the harvester tag.

Pursuant to M.G.L. c. 130 § 80 and 322 CMR § 7.01(7) your 2013 commercial shellfish permit and/or aquaculture propagation permit (**DMF ID# 155947**) is hereby conditioned during the period of May 24th through October 20th:

1. All bags or containers of oysters shall be tagged and the tags shall include the **time of harvest**¹⁶³⁶; this is in addition to the harvest date, harvest area, identification of harvester, type of shellstock, and quantity. Time of harvest shall be placed on the tag in indelible ink at the actual beginning of harvest.
2. All oysters shall be **adequately shaded**¹⁶³⁷ during transport from the harvest area to the primary buyer.
3. All oysters shall be **adequately iced**¹⁶³⁸ upon landing.

¹⁶³⁶ **Time of harvest** means the time when the first oyster in a lot is taken from the water, or in the case of intertidal harvest, the time of first exposure.

¹⁶³⁷ **Adequately shaded** means measures shall be taken to prevent oysters from direct exposure to sunlight that might cause a significant increase in pathogenic growth due to an increase in temperature.

¹⁶³⁸ **Adequately iced** means the containers holding shellfish have enough ice on the shellfish that it is sufficient to ensure the that the immediate cooling begins and continues to provide cooling until required internal temperatures are achieved within 10 hours of time of harvest. Harvesters shall surround oysters with loose ice prior to transport to the primary buyer. Ice shall remain in continuous and direct contact with the oysters throughout transportation and until oysters are cooled to $\leq 50^{\circ}\text{F}$ by the primary buyer. Conveyances containing iced oysters shall be well drained and constructed of smooth and easily cleanable materials. Primary buyers shall continue to add ice as needed prior to placement in refrigerated storage. Once oysters have been cooled to $\leq 50^{\circ}\text{F}$ and are ready for shipment, they shall not be permitted to remain without ice or mechanical refrigeration as required by the 2011 NSSP Model Ordinance CH XIII.01.B(2).

4. Shellfish handling by harvesters:

- a. Pre-Bagging and Pre-Collecting Oysters. Sections A.7. a-c & e of the *Vp* Control Plan have been modified. For 2012, these provisions were intended to deal with the actual bagging of oysters in the final container (bag) that would be used to convey the oysters to the primary buyer. It was designed to assist growers in meeting the five-hour time restriction from time of harvest to receipt at the primary buyer. Since the five-hour time restriction was eliminated from the 2013 *Vp* Control Plan these pre-bagging requirements A. 7. a. b. & e. have been rescinded. Oysters may be sorted on the culture site as part of normal maintenance and culturing, and section A.7.c. will still apply if growers pre-bag before the date of removal, making the final date of removal from the water the harvest date.
- b. Each harvester shall keep a bound harvest logbook that records the date, time of harvest and amount harvested (e.g., bushels, count bags) recorded in indelible ink. Logbooks shall be filled out before the day's harvest leaves the harvest area. Harvesters may choose to maintain logbooks electronically (e.g., cell phone, tablet computer) provided records comply with section A.7.d. & e. of the 2013 *Vp* Control Plan and harvesters are able to provide those records to the shellfish control authority immediately upon request.
- c. The 2013 *Vp* Control Plan prohibits the removal of market sized oysters – either legal or petites - from the private shellfish aquaculture grant to any off-site location for culling and the subsequent placement of the market size oysters in commerce; that is, transporting the oysters from the off-site location to the primary buyer. As stated at Section A.1 of the 2013 *Vp* Control Plan, no provision of this plan shall apply to seed oysters. Seed oysters may be removed at any time from the aquaculture grant for culling, provided it is done in accordance with the provisions set forth in the *Marine Fisheries Aquaculture Propagation Permit* (Aquaculture Permit).

These permit conditions are effective from May 24, 2013 through October 20, 2013.

Paul J. DiDato

CC:

Maj. Len Roberts, Massachusetts Office of Law Enforcement

Michael Moore, Kim Foley and Eric Hickey, MA Department of Public Health



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MAY 30 2013

Shellfish Propagation Permit No. 143913

Class 3

Type 1

FEE: \$10.00

DATE OF ISSUE:

4/26/2013

TO WHOM IT MAY CONCERN:

Pursuant to Paragraphs 2 and 3, Section 17; Sections 69, 75, 80 and 83 of Chapter 130 of the Massachusetts General Laws and 322 CMR 3.03; 6.05; 6.08; 6.10; 6.20; 7.01(4)(d) and 15:00, permission is hereby given, subject to the attached Shellfish Aquaculture Permit Conditions to:

Marshall E. Carroll

Box 213

Chilmark, MA 02535

DBA: Menemsha Oyster

To possess naturally occurring seed shellfish, seed shellfish transplanted under previously issued permits and to transplant seed and/or adult shellfish from Division of Marine Fisheries approved sources at and to the permit holders private shellfish aquaculture site, licensed under authority of Chapter 130, Section 57 of the Massachusetts General Laws; or at other locations authorized by endorsements made part of this permit; or to municipal propagation sites maintained under authority of Chapter 130, section 52 and 54 for cultivation of shellfish by coastal municipalities.

LOCATION OF AQUACULTURE SITE(S)

Waterbody: Menemsha Pond Town: Chilmark

DSGA: V2

Location: Mid Pond

A. GROWOUT

Type of Shellfish:

Oyster

Source:

Muscongus Bay

B. INTERMEDIATE GROW-OUT

On-Site ☒ Yes ☐ No Off-Site ☐ Yes ☒ No

Location: license site.

Intermediate Grow-out Method(s)

Floating

C. CULLING

Off-site Culling Allowed: ☒ Yes ☐ No

Off-site location: at slip on boat

D. SEED SALES

Seed Sales Allowed: ☐ Yes ☒ No

E. OVERWINTERINGOverwintering Allowed: ☐ Yes ☒ No

Location:

Species	In-Water	Cooler Pit	Other
Oyster	<input checked="" type="checkbox"/> Menemsha	<input type="checkbox"/>	<input type="checkbox"/>

F. SPAT COLLECTIONSpat Collection Allowed: ☐ Yes ☒ NoOn-Site
☐ Yes ☒ No

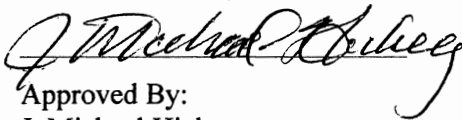
Location

Off-Site
☐ Yes ☒ No**G. SALE OF UNDER-SIZED (SEED) SHELLFISH FOR CONSUMPTION**Sale of Under-Size Shellfish Allowed: ☐ Yes ☒ NoOut of State: ☐ Yes ☒ NoIn State: ☐ Yes ☒ No

- A. Quahog not less than 7/8 inch thick
- B. Oysters not less than 2.5 inches longest diameter
- C. Surf Clams not less than 1.5 inches longest diameter
- D. Other

H. SPECIAL CONDITIONS APPLY ☒ Yes ☐ No

The following is a reminder to all shellfish growers. Intermediate grow out and over wintering of seed in coastal waters may only be conducted on the growers licensed site or an alternative site licensed by the municipality in accordance with section 57, MGL for these purposes, such as a community site.



Approved By:
J. Michael Hickey
Chief Biologist



Paul J. Diodati
Director

Cc to: Division of Environmental Law Enforcement (1)
Regional Supervisor, DELE (1)
Division of Marine Fisheries (1)
Board of Selectmen: Chilmark
Shellfish Constable(s): Chilmark