

# **TOWN OF BREWSTER**

## **2018 Commercial Razor Clam Pilot Program**

## **2018 Commercial Razor Clam Pilot Program**

The purpose of this program is to open the east end of Brewster ( Ellis Landing to Orleans Town Line) from June 25 to September 30<sup>th</sup> for the commercial harvest of razor clams. This time will allow the town to evaluate whether the resource can handle a commercial fishery and the ability of the Shellfish Department to effectively manage a razor clam fishery with its current resources. As a pilot program, there will be certain landing requirements and harvest notification required to help the Department with compliance checks and tracking. A limit of 15 commercial razor clam endorsements will be set for this pilot program. Priority is given to existing commercial permit holders or persons on the shellfish aquaculture waiting list.

### **Section 1. Authority**

(A) The Brewster Select Board, acting under the authority granted them and by the provision of Massachusetts General Laws, Chapter 598, Sections 52 and 54 of the Acts of 1941; Chapter 130, Section 52, and by any other statues of the Commonwealth of Massachusetts, do hereby promulgate the following rules and regulations concerning the taking of quahogs, mussels, soft-shell clams, sea clams, oysters, razor clams, scallops, blood ark clams, periwinkles, eels and sea worms.

(B) These rules and regulations supersede any previously issued shellfish rules and regulations and shall continue in force until amended, rescinded or replaced under MGL Chapter 130, or by rules and regulations adopted by the Select Board.

### **Section 1.1 Applicability**

(A) All persons harvesting or taking razor clams from the flats or waters of the Town of Brewster are subject to these regulations.

### **Section 1.2 Enforceability**

(A) The Shellfish Constable and his assistants shall be empowered to enforce all applicable sections of Chapters 130 and 21 of the Massachusetts General Laws and 322 CMR of the Massachusetts Division of Marine Fisheries pertaining to shellfish in the Town of Brewster.

## **Section 2. Definitions**

“Commercial” means the taking and selling of shellfish harvested from the waters of the Town.

“Commercial Fisherman Permit” (Shellfish specially endorsed) means a permit issued to an individual by the Massachusetts Division of Marine Fisheries expressly for the purpose of harvesting shellfish and offering it for sale.

“Commercial Shellfish Permit” means the permit issued by the Town to an individual over the age of 16 expressly for the purpose of harvesting and offering shellfish for sale.

“Boat” (see vessel).

“Bushel” means a quantity equivalent to that contained in a level container measuring 18" in length, 10 ½ " in height, and 12 ¼" in width. (2150 cubic inches)

“NaCl” Sodium Chloride (food grade salt)

“Possession” in the immediate control of a person e.g. in a boat, car, box, bag, etc. belonging to an individual

“Seed razor clam” means a razor clam less than five inches in size.

“Town” means the Town of Brewster, Massachusetts.

“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 the water.

“Waters” means all the waters of the Town subject to the ebb and flow of the tide out to the three- mile limit of marine jurisdiction.

### **Section 3. Eligibility for Commercial Shellfish Permits and Razor Clam Endorsements**

(A) The taking and selling of razor clams shall be deemed to be commercial. No person holding a family permit only will sell or offer for sale, for money or any other consideration, any shellfish or marine worms for commercial purpose unless he is a holder of a State (Chap. 130, Sec. 80) and Town (Chap. 130, Sec. 52) commercial shellfish permit.

(B) Only persons holding a Town of Brewster Commercial Shellfish License with a razor clam endorsement may harvest razor clams from the waters of Brewster.

(C) No citizen of the United States of America shall be eligible for a commercial shellfish permit, unless they fill the Town of Brewster residency requirements (see sub-section F) and has been domiciled in the Town of Brewster for at least 12 (twelve) months preceding the date of issuance thereof.

(D) All commercial shellfish permit applications must be filed with the Shellfish Constable or the Select Board between **April 1 and May 31** of each calendar year. In the case of this pilot program, anyone interested in purchasing a commercial license and an endorsement for harvesting razor clams after this deadline, may be allowed until the maximum of 15 razor clam endorsements has been sold.

(D) Each applicant for a commercial shellfish permit shall be a resident and domiciled in the Town for a period of twelve (12) months prior to application; If at any time the permit holder should change domicile to another town, the permit holder shall immediately notify the Shellfish Constable and the permit shall be automatically revoked and must be surrendered to the Shellfish Constable. In case of hardship, temporary retention of permit may be allowed subject to approval by the Select Board, based on the recommendation of the Shellfish Constable.

(E) Each application shall be subject to review by the Shellfish Constable and Select Board, prior to approval.

(F) Establishing residency shall be the burden of the applicant, to the satisfaction of the issuing authority to provide four (4) of the following documents as proof of domiciled residence:

1. A current motor vehicle driver's license;
  2. A current motor vehicle excise tax bill issued by the Town;
  3. A current real estate tax bill issued by the Town;
  4. A current lease or rental agreement of the applicant's residence/domicile in Brewster
  5. A current voter registration certificate for Brewster
  6. A current listing on the Town census or list of persons
  7. Or any other documentation as approved by the Shellfish Constable
- In cases of properties owned by trusts, the trustees and those named in the trust are eligible. Sufficient documentation, such as an excerpt of the trust agreement, is required.
  - In the case where a vehicle is leased, you MUST show a copy of either the lease agreement, monthly bill for lease, or proof of insurance with your name linked to the vehicle

(G) Holders of a commercial shellfish permit shall not employ any person for wages, shares, or any other considerations, or permit any person to assist in the active process of taking shellfish, unless said person shall possess a valid, current, commercial shellfish permit issued in the name of said person or as an apprentice under the age of 16 (sixteen). This provision shall not apply to a person who is accompanying or operating a boat for a person who has a valid, current, commercial shellfish permit and who is not otherwise actively engaged in or assisting in such fishery.

(H) No person holding a commercial shellfish permit, shall hold at the same time a family recreational shellfish permit for the taking of shellfish.

### **Section 5. Apprentice commercial shellfishing permit.**

The Select Board or Shellfish Constable may issue an apprentice commercial shellfishing permit to a resident child who is sponsored by a Town of Brewster commercial shellfishing permit holder with a razor clam endorsement. Said child must be under the age of 16, and said apprentice commercial shellfishing permit shall expire on the child's 16th birthday. The apprentice shall assist only the sponsor, and only in the harvest of the sponsor's catch limit. The apprentice shall not harvest shellfish without the accompaniment of the sponsor.

**Section 4. Commercial Permit Fees, Transferability, and Display Requirements**

(A) Fees – Commercial Shellfish Permit .....100.00

(B) Fees – Razor Clam Endorsement .....50.00

(C) All applicants must pay the permit fees for a commercial shellfish permit and endorsement when the application for such permit is submitted.

**Section 5. Catch Reports**

(A) All commercial shellfish permit holders shall file an annual catch report with the Select Board and Shellfish Constable, stating the amount, species and place of shellfish harvested. A new permit may not be issued until the catch report has been completed by the permit holder. For the purposes of this pilot, all catch reports are due no later than November 1, 2018.

**Section 6. Harvest Notification**

(A) As a pilot program, the Town of Brewster will require all harvesters to notify the shellfish constable each time they plan to harvest and specify whether by land or by boat. If by boat, indicate which harbor with adequate time for Shellfish Constables to respond.

(B) Prior to harvesting razor clams each day, the harvester must contact the Shellfish Constable to announce the intent to harvest and where they intend to land their catch. Methods of contact include: office phone or text to department cell phone.

**Section 7. Tagging / Display Permit**

(A) All shellfish harvested under a commercial shellfish permit shall be placed in a suitable container during transport. The container shall bear a label or tag legibly marked with:

(a) Date of harvest.

(b) Place of harvest.

(c) Digger’s state permit number.

(d) Name and address of digger.

(B) All shellfish, commercial permits and licenses shall be displayed upon demand of a Shellfish Constable or Town of Brewster police officer.

**Section 8. Commercial Shellfish Hours, Landings and Temperature Restrictions**

(A) Hours – No person shall dig, take, drag or carry away any shellfish or shells between the hours of one-half (1/2) hour after sunset and one-half hour before sunrise by any method whatsoever, from any water, flat, creek or marsh of the Town of Brewster.

### **Section 8.1 Landings**

(A) All razor clams commercial harvested by foot access must be landed at Linnell Landing.

(B) All razor clams commercial harvested by boat will have to obtain written permission from shellfish constable and the neighboring harbormasters in order to land shellfish in their harbors. In addition to tagging the bags CCB 20, the permit holder will have to retain a copy of this letter to display with their license.

### **Section 8.2 Temperature Restrictions**

(A) No person harvest razor clams on any days when the air temperature reads under 30 degrees F.

### **Section 9 Methods of harvest**

(A) The taking of razor clams by salting is allowable provided there are no other species (such as soft-shelled clams or quahogs) within the inter-tidal zone of a given area. Areas of mixed species will be assessed and determined in the sole and unfettered discretion of the Shellfish Constable

(B) No other method of harvest is allowable, such as plungers, pumps, drags or dredges.

### **Section 10 Size / Catch limit**

(A) 5" (five) minimum size

(B) 2 Bushel per day limit

### **Section 11 Registration of commercial boats:**

(A) Any boat engaged in commercial shellfishing in the Town of Brewster shall be registered or documented in the Town of Brewster, and the owner shall hold a valid commercial shellfish license with a razor clam endorsement.

### **Section 12 Prohibited Activities**

Dry salting (salt not in a water solution), broadcast salting (spreading dry salt over a tidal flat), or spraying of any other solution than food grade table salt is prohibited.