

Department of Natural Resources and Environmental Control

Division of Fish and Wildlife

Fisheries Section

Statutory basis: § 1902(a)(4), 7 Del. C.

Final Regulation

3700 Shellfish

3702 Definitions:

1.0 **"2 Consecutive Years"**, as it appears in 7 **Del.C.** §1918(c) shall mean any consecutive 24 month period.

"A Person's Intent to Sell Shellfisheries to Another" shall mean a person has in his possession a quantity of that species of shellfish in excess of the quantity specified under the definition of "Commercial Shellfishing" or this same person advertises for sale, offers for sale or completes the sale of any portion of that measure of shellfish to another person.

"Commercial Shellfishing" shall mean for any person to possess those species of shellfish in excess of the following quantities unless said person has a valid receipt for all shellfish above these quantities; or as otherwise provided by law or regulation:

- Oysters - one (1) bushel per vessel
- Blue Crabs - one (1) bushel per person
- Hard Clams - five hundred (500) clams per person
- Lobsters - two (2) lobsters per person

"Commercial Measure" shall mean that unit of measurement of a species of shellfish as described herein:

- Oysters - bushels
- Blue Crabs - bushels
- Clams - actual numbers or bushels
- Lobsters - actual numbers or pounds
- Blue Mussels - bushels or pounds

"Delaware Bay" shall mean all those waters and submerged lands under the jurisdiction of the State located within an area bordered on the North by a straight line drawn between Liston Point, Delaware and

Hope Creek, New Jersey and bordered on the South by a line drawn from Cape May Inlet East Jetty Light to Cape May Harbor Inlet Lighted Bell Buoy 2CM; thence to the northernmost extremity of Cape Henlopen, but not including any tributaries thereto.

"Delaware River" shall mean all those waters and submerged lands under the jurisdictions of the State located within an area to the North of a straight line connecting Liston Point, Delaware and Hope Creek, New Jersey, but not including any tributaries thereto.

"New Licensee"

- shall mean for purposes of interpreting 7 Del.C. §1918(a), any person who has never been issued a commercial crab pot license or any person who has not been issued a valid commercial crab pot license by the Department before May 1, 1994 and annually thereafter when applying for the renewal of such license.

- shall mean for purposes of interpreting 7 Del.C. §1918(b), any person who has never been issued a commercial crab dredger's license or any person who has not been issued a valid crab dredger's license by the Department before May 1, 1994 and then annually thereafter when applying for the renewal of such license."

"Processing" shall mean, with respect to shellfish or shellfisheries products: Preparing, shucking, freezing, changing into different market forms, manufacturing, preserving, packing.

"Processor" shall mean any person engaged in the purchasing, or commercial, custom, or institutional processing of shellfish products.

"Recreational Purposes" shall mean the noncommercial use of shellfish that does not include the sale, trade or barter of shellfish in quantities less than the prescribed quantities for commercial shellfishing.

3771 Oyster Harvesting Licensee Requirements

1.0 It shall be unlawful for any person licensed to harvest oysters from the State's natural oyster beds to possess another person's oyster harvesting tags while on board the vessel listed on said person's oyster harvesting license unless the other person is on board said vessel while harvesting oysters.

2.0 It shall be unlawful for any person licensed to harvest oysters from the State's natural oyster beds for direct sale to not attach a current Department-issued oyster harvesting tag in the locked position through the fabric of a bushel bag containing oysters. The tag shall be cinched around the top of the bag and locked such that the bag may not be opened nor oysters removed from the bag without breaking the tag or seal. Bags shall be tagged prior to the vessel leaving the shellfish harvest grounds and remain in place while being transported for processing.

3.0 It shall be unlawful for any person to possess a bushel bag that is empty or partially filled with oysters so long as an oyster harvesting tag is attached to said bag.

4.0 It shall be unlawful for any person to possess an oyster cage that is empty of oysters so long as an oyster harvesting tag is attached to said cage. A filled or partially filled oyster cage must have the appropriate number of tags attached in the locked position to reflect the number of bushels of oysters in the cage.

5.0 It shall be unlawful for any person licensed to harvest oysters from the State's natural oyster beds to possess, while on board any vessel listed on said person's oyster harvesting license, used or otherwise invalid oyster harvesting tags. A used tag shall mean any tag that has been locked or sealed and subsequently cut, broken, or made unusable.

6.0 Any processor receiving oysters that were harvested from the State's natural oyster beds must keep the oyster harvesting tag or tags in place until the container is broken open or emptied by the processor, at which time the processor must promptly remove and retain the tag(s) for a period of 90 days beyond the end of the calendar year, unless otherwise directed by authorized representatives of the Department.

6.1 It shall be unlawful for any person to process oysters aboard a vessel.