§ 13-0311. Digger's permit to take shellfish for commercial purposes; when not required.

1. Subject to the provisions of this article, a person may take shellfish from under water lands in the state for commercial purposes, including the culling, sorting or tagging of such shellfish, only upon first obtaining a digger's permit from the department, provided, however, that the application for such permit by a person sixteen years of age or under shall be signed by his parent or legal guardian, who shall thereby consent to the issuance of the permit.

2. The department shall prescribe and furnish forms for application for such permit.

3. The fee for such permit shall be fifty dollars for a person domiciled within the state. The fee for persons not domiciled within the state shall be one hundred fifty dollars. Such permit shall expire on December 31 of the year of issue. If it appears in the public interest, the department may, after hearing held on ten day's notice, suspend or cancel such permits, except that in case of a taking from an uncertified area such suspension or cancellation may be without prior notice.

4. The holder of such permit shall not ship or sell shellfish, except to a holder of a valid Class A, B, or E shipper's permit, issued pursuant to section 13-0315 of this title, who has a place of business in the county of Nassau or Suffolk, without first obtaining a shipper's permit as provided in subdivision 1 of section 13-0315.

5. Subject to the provisions of this article, a person may, without permit, take not more than a total of four pecks (one bushel) of shellfish other than bay scallops and not more than four pecks of bay scallops (Argopecten irradians) in any one day for the use of such person or such person's family. Within the one bushel total limit of species, other than bay scallops, which may be taken in one day the following species-specific limits shall apply:

a. Hard clams (Mercenaria mercenaria). Not more than one hundred

individual organisms.

b. Blue mussels (Mytilus edulis). Not more than two pecks.

c. Oysters (Crassostrea virginica). Not more than two pecks.

d. Soft Clams (Mya arenaria). Not more than two pecks.

6. The holder of such digger's permit shall carry the permit assigned to such holder while engaged in the permitted activities, and the failure by such holder to exhibit the permit to any shellfish inspector, environmental conservation officer, health official, peace officer, acting pursuant to such officers' special duties, police officer or magistrate shall be presumptive evidence that no valid digger's permit has been issued to the person who fails to produce such permit.

7. No person shall take shellfish or assist another in the taking of shellfish in any quantity, including the culling, sorting or tagging of such shellfish, during the time that such person's digger's permit privileges have been revoked or suspended.

8. Endorsed vessels. a. Upon application to the department on forms furnished by the department, a shellfish digger's permit may be endorsed for use on a vessel, in which case such permit shall authorize all persons on board such vessel to engage in the taking of hard clams (Mercenaria mercenaria) and oysters (Crassostrea virginica), including the culling, sorting, and tagging of such shellfish. Each application shall include a copy of one of the following documents as proof of vessel length: the certificate of documentation for the vessel issued by the United States government, or the registration for the vessel issued by any state government within the United States.

b. The fee for endorsing a shellfish digger's permit to a vessel shall be fifty dollars for a vessel that is forty feet or less in registered length, and one hundred dollars for a vessel that is greater than forty feet in registered length. Such fee shall be in addition to the permit fee provided for in subdivision three of this section.

c. Not more than one rake, tong or other shellfish harvesting device shall be used for the taking of hard clams and oysters at any given time pursuant to a digger's permit which has been endorsed to a vessel.

d. A shellfish digger's permit which has been endorsed to a vessel shall not cover any person whose shellfish digger's permit privileges have been revoked or suspended.

e. The holder of a shellfish digger's permit which has been endorsed to a vessel shall be on board such vessel at all times when the vessel is being used for the taking of hard clams and oysters.

f. The holder of a shellfish digger's permit which has been endorsed to a vessel shall be liable for all violations of this title that occur on such vessel.

g. If the holder of a shellfish digger's permit which has been endorsed to a vessel is a corporation, the operator of such vessel shall possess a separate shellfish digger's permit issued in the operator's name, and such operator shall be liable for all violations of this title that occur on such vessel.

h. A shellfish digger's permit shall not be endorsed to more than one vessel at any one time.

i. The holder of a shellfish digger's permit which has been endorsed to a vessel shall maintain a daily log indicating the names and addresses of individuals covered by such permit for each day the vessel is used for taking hard clams and oysters and shall make such log available to the department upon request.