

To: Dr. David Pierce, DMF Director
From: Wellfleet Shellfish Advisory Board

Dear Mr. Pierce,

Please see below several definitions from the recent revisions of the shellfish regulations that the Wellfleet SAB has identified as needing clarification. Specific passages are in **bold** and SAB question or comments are in **red**. Thank you for your time.

322 CMR 16.02

Fishing or Fish For means to harvest, catch or take, or attempt to harvest, catch or take any shellfish. For vessels using mobile gear, a vessel is presumed to be fishing unless the dredge gear is out of the water and **secured to the vessel's side or stern**.

Some draggers place dredge gear on the culling table or on the deck of the boat when not fishing.

Land means to transfer or **attempt to transfer shellfish** onto any land, pier, wharf, dock or other artificial structure or for a vessel with any shellfish onboard to tie-up to any dock, pier or artificial structure.

What does attempt to transfer mean?

Time of Harvest means for sub-tidal areas when the first piece of shellfish in a lot is taken from the water on any calendar day. **Time of harvest for intertidal areas means when the first piece of shellfish in a lot is exposed** during a single low tide cycle or when the first piece of shellfish in a lot is taken from the water or sediment, whichever occurs first.

SAB discussed the difference in definition between Time of Harvest and Time of Exposure. It seems that these two separate terms have been combined into the single definition of Time of Harvest. However, the two terms are used independently in other areas of the regulations.

Wet Storage means the storage by a dealer of shellstock from an Approved growing area in the open status or a Conditionally Approved growing area in the open status in containers or floats in **natural bodies of water** or in tanks containing natural or synthetic seawater at any permitted land-based activity or facility. This definition shall not apply to any shellfish depuration activity conducted in accordance with 322 CMR 10.00.

Does this define wet storage as only a land-based activity and only to take place at a land based facility?

Or, does "natural bodies of water" refer to an area not located at a land-based facility?

Thank you,
Wellfleet Shellfish Advisory Board