



Wellfleet Shellfish Department



300 Main Street, Wellfleet, Massachusetts 02667

Date: October 5, 2020

To: Shellfish Advisory Board

From: Nancy Civetta, Shellfish Constable

Re: Request for Discussion and Review of Boat Regulation Section 8.6

Dear SAB members,

Please read the following correspondence (email) I sent you all on September 17, 2020, where in order for the Shellfish Department to effectively enforce a situation we encountered, I requested guidance and clarification on Wellfleet Shellfishing Policy and Regulations Section

8.6 Commercial Permit Required for Dragging/Dredging

The owner or operator of a vessel engaged in commercial shellfishing in the waters of the Town involving the use of a drag, dredge or other mobile gear, shall hold a valid Town of Wellfleet Commercial Shellfish Permit.

In addition, the Town Administrator asked me to contact the Mass. Division of Marine Fisheries, not Town Counsel. I am pasting their reply here:

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"From: Petitpas, Christian (FWE) <christian.petitpas@state.ma.us>

Sent: Wednesday, September 23, 2020 7:53 AM

To: Nancy Civetta <Nancy.Civetta@wellfleet-ma.gov>

Subject: RE: Review of Commercial Shellfishing: Dragging and Dredging sections of Wellfleet Shellfishing Policy and Regulations

Hi Nancy,

Apologies for the delayed response. Jared and I reviewed the issue presented in your forwarded emails and we did not see any red flags in terms of conflicts with state statute and/or regulations one way or the other. Whether or not non-owner boat operators need to get a local commercial permit is a town issue and has to be reconciled locally. Having said that though, DMF is aware of at least one case where an individual in your town is commercial fishing for himself using another individual's boat. Your suggested path to have your local administrators clarify language in the local regs is your best option.

Best wishes,

Chrissy

[wellfleet-ma.gov/shellfish-department](http://wellfleet-ma.gov/shellfish-department)

Phone (508) 349-0325



Fax (508) 349-0305

Christian M. Petitpas, Ph.D.  
Massachusetts Division of Marine Fisheries  
Shellfish Sanitation and Management Program  
706 South Rodney French Boulevard  
New Bedford, MA 02744  
Ph: (508) 742-9766  
christian.petitpas@mass.gov  
Join the conversation! We're on Twitter, Flickr, Facebook, and YouTube.”

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I also went back through ten years of Shellfish Advisory Board and Selectboard minutes and did not find any references to this regulation. I understand from the community that the spirit and the sentiment of the regulation was to ensure that both owner and operator of vessels engaging in shellfish harvesting should have Wellfleet commercial shellfishing permits. However, I believe the regulation wording would need to be changed to be more specific for enforcement action. I bring this to you and our community for an open and public discussion, and potentially a vote, which I can then bring to the Selectboard.

Thank you,



Nancy Civetta
Shellfish Constable
Town of Wellfleet

Hi all,

Becca asked some good questions, which I answered below for your reference.

Nancy

From: Rebecca T <beautifulbirth4u@yahoo.com>

Sent: Thursday, September 17, 2020 1:12 PM

To: Nancy Civetta <Nancy.Civetta@wellfleet-ma.gov>

Subject: Re: Review of Commercial Shellfishing: Dragging and Dredging sections of Wellfleet Shellfishing Policy and Regulations

Am I allowed to ask who's license they are fishing under (not a name)(like the owner's or the operator's in a different town)?

The shellfish is being landed with the name/details of the crew member who has a commercial fishing permit. This is not ideal as it means that catch is getting logged to intertidal fishery, not the dragger fishery. Irrelevant to our discussion. But something I would need to get fixed by asking the owner to add the crew member as an employee so he can sell under the boat's commercial fishing permit – and catch gets tracked accurately. This is important as Wellfleet is only town with commercial oyster fishery by dragger and we need to protect that status.

Do they have a DBA license from the state, under the owners name?

No. See above.

Who is the shellfish being sold under?

See above.

Are they trying to fish under two different quotas? Or just the owners?

Currently fishing under vessel quota from our regulations – with just one permit on board, the crew member.

Does the state say the licensee needs to be on the boat?

Ideally, yes. And it can easily be done.

I am sure you already covered these points but it would help me determine if it's an actual issue we need to fix.

Or whether a WFleet resident with a boat just pays someone to run it, why is that a problem?

This is what is happening but SAB intended to prevent that when it changed the 8.6 regulation. I am trying to find out when that was done. I believe it was prior to 2014 and no minutes are online from before 2014, so my research project is on!

-Becca

On Thursday, September 17, 2020, 11:29:55 AM EDT, Nancy Civetta <nancy.civetta@wellfleet-ma.gov> wrote:

Dear Maria and Shellfish Advisory Board members:

The Wellfleet Shellfish Department (WSD) has been confronted with an issue that bears review of Town Counsel and the Shellfish Advisory Board (SAB). We have a fishing vessel owner, who has a valid Wellfleet commercial shellfishing permit and the vessel is appropriately documented with Wellfleet as its port of origin. He is allowing someone without a Wellfleet commercial shellfishing permit to operate his vessel. My understanding from discussions with WSD staff and current and former SAB members is that this is not allowed under our regulations, which follow. They explained that the spirit and the intent of the regulation was to prevent people without Wellfleet commercial shellfishing permits from operating fishing vessels engaged in commercial shellfishing in Wellfleet waters. We received many complaints from other commercial fishermen in town about this violation, so it is clear that the shellfishing industry understands this regulation as just described.

I informed the vessel owner of this and had a discussion with the unpermitted operator as well, requesting to both not to continue operating the shellfishing vessel in this way. I emailed regulation section 8.6 (below) to the vessel owner, who took contention with the word "OR" and said that he was completely within his right to have the unpermitted person operate his vessel due to the word OR since he, the owner, was permitted. I do not believe this was the intention nor the spirit of this regulation based on what I have learned about its addition to our regulations as described above and the community's response to observing the activity.

Maria, I would like to request that Town Counsel review this, and SAB members, I would ask that you take this up at your next meeting. Hopefully, Town Counsel can weigh in with an appropriate wording change, if necessary, that SAB can review, discuss and vote on at its upcoming October meeting, potentially on Oct.5.

8.6. Commercial Permit Required for Dragging/Dredging

The owner or operator of a vessel engaged in commercial shellfishing in the waters of the Town involving the use of a drag, dredge or other mobile gear, shall hold a valid Town of Wellfleet Commercial Shellfish Permit.

8.7. Vessels Must be Registered/Documented

Any vessel used for commercial shellfishing in the waters of the Town employing (over the side) a drag, dredge or other gear designed for the taking of shellfish must be registered and/or documented as having Wellfleet as port of origin. The owner of said vessel found in violation of this regulation shall be fined for each violation.

Thank you for your time and consideration,

Nancy

Nancy Civetta

Shellfish Constable

Town of Wellfleet