



# Wellfleet Shellfish Department



300 Main Street, Wellfleet, Massachusetts 02667

## MEMORANDUM

DATE: September 20, 2019

TO: Town of Wellfleet Selectboard Members

RE: Revised proposed changes to Wellfleet Shellfishing Policy and Regulations re:  
overwintering

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Dear Selectboard Members:

The Shellfish Advisory Board again voted to leave the current regulations basically the same with the addition of removing all condos and the slight revision of pushing racks to within 4-6" from the bottom. The Wellfleet Shellfish Department still thinks these changes don't go far enough. We believe that we need to reduce the amount of racks that are left out through the winter and accurately understand exactly what gear is left out and what gets damaged or lost by winter weather.

That said, we feel that it is of paramount importance to allow for a year-round oyster industry because 1) the Wellfleet brand name can not afford to lose market share in an increasingly competitive environment, and 2) the shellfishing industry has always provided a way to make year-round income for our residents and that needs to continue. Leaving gear out with harvestable oysters allows farmers to take advantage of winter demand when less oysters are available, and this income is crucial to making a year-round living here.

We are a multi-use harbor supporting commercial shellfish draggers, charter fishing boats, sailboats, power boats, jet skis, water skiers, kayakers, paddleboarders and more. All of these users have the right to safely operate in our waters. Distorted and lost racks can pose a danger to other harbor users. Wellfleet prides itself as a community of all types of different shellfish farmers with small and large business operations. The Shellfish Department wanted to find a solution that honored that, yet respected all harbor users, while allowing for a year-round oyster market and seed storage in the water rather than in a pit. We believe our proposals will allow for that.

It has been and will continue to be a challenge for our three-person year-round department to oversee grants through the overwintering process pre- and post-ice, especially with the new proposals we are making. It is important to note that we are also taking all of our aquaculture gear in and pitting our seed oysters – a large propagation effort, and we patrol and monitor very busy fall and winter fisheries, with a fleet of boats operating in the harbor, dozens of commercial shellfishermen spread out in the intertidal areas from Duck Creek to Lt. Island, as well as recreational harvesters who can fish from Chipman's Cove south to Lt.

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

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Island. Accurate grant oversight is a necessity; therefore, we will require more manpower starting with our FY2021 budget, especially with the additional overwintering grant inspections we are proposing both before and after the ice.

#### RATIONALE FOR PROPOSED CHANGES

Attached are the Shellfish Department's proposed changes to regulation 17.9.5 and Appendix D (overwintering contract).

In addition to more detailed information that we will collect and then inspect, we are proposing that farmers leave out no more than 100 racks on their grants. The definition of a grant for this purpose shall be any combination of grants and/or extensions that share boundaries and are farmed together under the same license and same licensee(s). For example, two one-acre grants which share boundaries and are licensed to the same individual(s) would count as one grant. That limit alone, based on last year's numbers, will bring down the amount of racks overwintered in the harbor by close to 2,000 racks, resulting in only about 1,000 racks being left out. We feel that this will significantly improve the situation.

An item that we bring to you for discussion is the collection of fees for overwintering racks. We spoke with the Center for Coastal Studies (CCS) which often gets grants to do ghost fishing gear clean-ups. They told us it costs \$3,000/day plus extra money to look at images for a salvage company to come in and conduct deep water gear clean-up. With that in mind, we thought that farmers who would want to leave out more than 100 racks should contribute money for each additional rack they leave out to fund that potential future deep-water clean-up effort. We suggest perhaps \$5 a rack to go into a special clean up fund. Currently, the CCS has a grant to retrieve ghost fishing gear and has liaised with the Shellfish Dept. and will very likely do a sonar survey to determine the extent of aquaculture gear that will need to be grappled up and removed.

I would ask you to discuss these proposals in full at the hearing on September 24, with feedback from the shellfishing community, and take a vote contingent on approval by Town Counsel. I look forward to hearing your concerns and answering your questions.

Thank you.



Nancy Civetta, Shellfish Constable

## PROPOSED 7.19.5 REGULATION CHANGE

### 7.19.5. Overwintering of Equipment on Grants

**All condos/hotels/stackable cages must be removed by January 15th, or before ice prevents removal, whichever comes first. All holding cages, plastic trays, oyster grow bags and/or u hooks used to secure nets, or anything constructed of metal on a licensed area, must be securely fastened to the bottom and all racks must be pushed down to be flush with the bottom by January 15th, or before ice prevents removal, whichever comes first. All gear must have shellstock on it. As soon as shellstock is sold and gear becomes empty, the gear must come off. No more than 100 racks will be allowed to be overwintered per grant, unless a fee of \$5 is paid for each additional rack. The definition of a grant for this purpose shall be any combination of grants and/or extensions that share boundaries and are farmed together under the same license and same licensee(s). For example, two one-acre grants which share boundaries and are licensed to the same individual(s) will count as one grant. Racks, rebar or u hooks used to secure nets on a licensed area must either be securely fastened to within eight inches (8") of the bottom or removed by January 15, or before ice prevents removal, whichever comes first. Any licensee who wishes to overwinter racks or other aquaculture gear such as clam nets, holding cages, plastic trays, oyster grow bags, etc. on their grant must tag all of this gear and obtain and sign an agreement form **Overwintering Contract** available from the Shellfish Department (see Appendix D). In parts of the harbor where there may be a risk of silt covering overwintered racks on a licensed area, the Constable may waive the height requirement in 7.18.5 after a visit to the specific site and documenting the adjustment on the Agreement Form.**

APPENDIX D:

**OVERWINTERING CONTRACT  
FORM OF AGREEMENT**

I, \_\_\_\_\_

**will remove all condos from my grant(s), but choose to overwinter other aquaculture gear as outlined below. I will securely fasten all holding cages, plastic trays, oyster grow bags and/or u hooks used to secure nets, or anything constructed of metal to the bottom and push all racks down to** ~~agree to remove all metal racks, rebar or u hooks used to secure nets, or anything constructed of metal that is not securely fastened to within 8"~~ **be flush with** the bottom by January 15th, or before ice prevents removal, whichever comes first.

~~If I decide to store racks on my grant(s) over the winter, I agree to the following conditions:~~

1. ~~All racks shall~~ **equipment, including racks, holding cages, plastic trays, oyster grow bags and any other equipment used to store oysters, will be tagged with the owner's my name and grant number.**
2. **All equipment left out must contain live oysters. Once oysters have been sold and gear remains empty, I will bring it in and let the Shellfish Dept. know.**
3. An accurate number of **clam nets and racks, holding cages, plastic trays, oyster grow bags, etc.** being left on the grant ~~will be~~ **is provided on this agreement form.**
4. **I will pump all such racks must be pumped down to within 8" of be flush with** the bottom.
5. **I will only leave out 100 or less racks per grant as defined in section 7.19.5, and I agree to pay a contingency fee of \$5 per each additional rack over 100 to go towards any gear clean up that the Town may need to undertake in the future.**
6. **I will allow Wellfleet Shellfish Department staff to inspect my grant for compliance, whether or not I am present, as soon as I turn in this agreement, and again, after any ice leaves.**
7. **I hereby delegate \_\_\_\_\_ to be responsible for what happens on my grant in the case that I become unavailable or unreachable due to illness, travel or other. Cell phone: \_\_\_\_\_ Email: \_\_\_\_\_**
8. **I will inform the Shellfish Department of exactly how many clam nets, racks, holding cages, plastic trays, oyster grow bags, etc. I lost or that were damaged as soon as the ice departs my grant area.**
9. **I will spare no effort or expense to recuperate my gear, I will participate in beach clean up days, and I will undertake no commercial activity until I have recuperated all of my lost equipment and demonstrated it to the Shellfish Department.**
10. **I agree to clean up** any aquaculture gear that is damaged **or lost** during the winter ~~must be cleaned up~~ by March 1st or when the departure of ice allows, whichever comes first.
11. I understand that I am solely liable for any damage my equipment may cause to other aquaculturists or the public.

12. **I understand that** failure to adhere to these conditions can result in suspension or revocation of my grant license, in accordance with Section 11 of the Wellfleet Shellfishing Policy and Regulations.

Grant license(s) #: \_\_\_\_\_  
\_\_\_\_\_

**Number of clam nets to be overwintered:**

**Number of racks to be overwintered (not more than 100):**

**Number of racks over 100 to be overwintered:**

**XX racks times \$5/each = \$XX Fee due to the Town of Wellfleet**

**Number of holding cages to be overwintered:**

**Number of plastic trays to be overwintered:**

**Number of oyster grow bags to be overwintered:**

**Number of other items to be overwintered (please describe):**

Signature \_\_\_\_\_

Date: