

## **TOWN OF DENNIS**

### **COMMERCIAL SHELLFISH REGULATIONS**

As amended on February 19, 2020

These regulations supersede all previous regulations

(September 8, 1981; October 5, 1982; November 2, 1982; July 5, 1984; March 25, 1986; June 5, 1990; March 31, 1992; August 9, 1994; February 6, 1996; June 16, 1998; July 7, 1998; May 29, 2001; March 24, 2009; December 6, 2011)



These regulations are made by the Town of Dennis Select Board on the authority of the Massachusetts General Laws relating to Marine Fish and Fisheries, including without limitation to Chapter 130, Section 52.

The Massachusetts Division of Marine Fisheries may from time to time designate shellfish areas as contaminated and the shellfish obtained from this area as unfit for food. Contact your local shellfish officials to learn of approved shellfish harvest areas.

Household Shellfish Regulations and Privately Licensed Shellfish are published under separate covers and are available upon request.

## Table of Contents

<b>Section 1</b>	<b>Definitions .....</b>	<b>3</b>
<b>Section 2</b>	<b>Permit and Fees .....</b>	<b>6</b>
	2.1 Fee	
	2.2 Permit Eligibility	
	2.3 Issuance Period	
	2.4 Possession and Display	
<b>Section 3</b>	<b>General Regulations.....</b>	<b>7</b>
<b>Section 4</b>	<b>Species Specific Regulations.....</b>	<b>8</b>
	4.1 Quahogs	
	4.2 Soft Shell Clams	
	4.3 Razor Clams	
	4.4 Oysters	
	4.5 Scallops	
	4.6 Blue Mussels	
	4.7 Eels	
<b>Section 5</b>	<b>Opening and Closing Dates.....</b>	<b>9</b>
	5.1 Bass River	
	5.2 Swan River/Swan Pond	
	5.3 Nantucket Sound	
	5.4 Cape Cod Bay	
<b>Section 6</b>	<b>Bass River North (SC:35.7) Conditional Area.....</b>	<b>10</b>
<b>Section 7</b>	<b>Penalties and Fines.....</b>	<b>11</b>
	Suspension	
<b>Section 8</b>	<b>Other Types of Shellfish.....</b>	<b>11</b>

## **SECTION 1: Definitions**

**American Eel** - A facultative catadromous fish, species *Anguilla rostrata*.

**Basket Rake** - A hand-held implement used for the harvesting of shellfish, which is similar to but longer than a standard clam hoe, which has a basket and no more than twenty (20) teeth, is no wider than 12 inches at its widest part, and does not have a T handle.

**Bull Rake** - A T-handled hand-held and hauled implement used for the harvesting of shellfish.

**Bushel** – A container that is 32 quarts or 4 Peck Baskets

**Catch Report** - A report that must be submitted to the Town every year before December 31<sup>st</sup> which includes the total number of each kind of shellfish harvested during the preceding year.

**Clam Rake** - A hand tool of typically eight (8) tines or less, used to manually bring clams to the surface of the substrate.

**CMR** - Code of Massachusetts Regulations.

**Commercial Harvest** – The harvest of shellfish for sale, trade, or other consideration.

**Container** - Any bag, box, basket, cage, or other receptacle containing loose shellfish which may be separated from other shellfish after harvest, on a lease, or from the entire load or shipment.

**DMF** - Division of Marine Fisheries.

**Domiciled Resident** - See Resident

**Drag / Dredge** - A heavy metal frame with an attached bag, which is towed or dragged along the seafloor to catch bottom dwelling shellfish. Some have metal teeth along the base of the frame that act like a rake.

**Fyke Net** - A fyke net is a fish trap. It consists of cylindrical or cone-shaped netting bags mounted on rings or other rigid structures.

**Glass Eel** - American Eel in its transparent, post-larval stage.

**(To) Handpick** - The transfer of shellfish to a container from the substrate by hand or with a hand-held tool of eight (8) tines or less.

**(To) Harvest** - To gather shellfish or other marine organisms in a container of any sort after sorting and separating them from what has initially been taken from the habitat.

**Harvesting Area** - An area approved for the taking of shellfish.

**(To) Land/Landing** - To bring harvested shellfish by vessel to the Town Pier and to tie up before proceeding elsewhere; to bring harvested shellfish ashore above the mean high-water line.

**Long Raking** - method of harvesting shellfish using a long-handled bull or basket rake from a boat.

**MGL** - Massachusetts General Law.

**Mussel** - A marine mollusk of the species *Mytilus edulis*.

**Oyster** - A marine mollusk of the species *Crassostrea virginica*.

**Permit** - A certificate granting permission to engage in specific activities issued by the appropriate authority.

- **Commercial Shellfish Permit**, issued by Department of Natural Resources
- **State Commercial Permit**, issued by DMF
  - In order to harvest, possess or land fish, shellfish or bait for commercial purposes
- **Shellfish Transaction Card**, issued by DMF:
  - Authorizes only the named individual holding a Commercial Fishing Permit endorsed for shellfish and seaworms to sell shellfish and seaworms, and shall be used in conjunction with either a Massachusetts driver's license or a Registry of Motor Vehicles identification card.

**Planted Areas** - Areas in which the Shellfish Department has planted shellfish for purposes of propagation or transplanting.

**Poaching** – The harvesting of shellfish, illegally, from any area.

**Quahog** - A marine mollusk of the species *Mercenaria mercenaria*, commonly called the hard-shelled clam.

**Raking** - Gathering oysters and/or other materials using a rake and then transferring this accumulation to a container, vehicle or vessel.

**Resident** - A declared resident of the Town of Dennis. Written proof that Dennis is the domicile as well as the legal residence of the applicant shall be required to the satisfaction of the Shellfish Constable and Board of Selectmen.

**Scallop** - A marine mollusk of the species *Argopecten irradians*, commonly called Bay Scallop.

**(To) Scratch** - To harvest clams with the aid of a clam rake.

**Seed** - Quahogs, with the exception of gems, less than (1) one inch wide, across both valves at the hinge, soft-shell clams less than (2) two inches in length (the largest measurement, 90 degrees from the hinge to outer margin of the shell); oysters, with the exception of petites, less

than (3) three inches in height (from hinge to outer margins of the shell), and scallops without a defined annual growth ring.

**Softshell Clam (Steamer)** - A softshell clam of species *Mya arenaria*.

**Shellfish** - Softshell clams, whelks, mussels, oysters, snails, quahogs, razor clams, bay scallops, sea scallops, sea clams, and blood arks.

**Surf Clam (Sea Clam)** - A hard shell clam of species *Spisula solidissima*.

**(To) Take** - To harvest.

**Taxpayer** – An individual who owns land in Dennis for which they are taxed by the Town.

**Town** - The Town of Dennis.

**Transaction Card** - See Permits; Shellfish Transaction Card.

**Week** - The calendar week commencing at 12:00 A.M. Sunday and ending at 12:00 Midnight Saturday.

## **SECTION 2: Permit and Fees**

### **2.1 Fee**

- \$250.00 per Calendar Year

### **2.2 Permit Eligibility**

- Applicant must be domiciled in the Town of Dennis.
- Applicant shall furnish evidence of one of the following:
  - A valid current motor vehicle driver's license issued by the Commonwealth of Massachusetts.
  - A current real estate tax bill issued by the Town of Dennis.
  - Current ownership of the applicant's residence in the Town of Dennis.
  - Current rental of the applicant's residence in the Town of Dennis.
  - Current registration to vote in the Town of Dennis.
- Applicant must possess a valid, current Massachusetts Commercial Permit endorsed for Shellfish and Seaworms. A Shellfish Transaction Card issued in the name of the applicant by the Division of Marine Fisheries. Must be effective for the calendar year in which the Town Commercial Shellfish Permit is to be effective.
- Applicant must be at least 16 years of age.

### **2.3 Issuance Period**

- Permits will only be issued after the applicant has shown proof of permit eligibility and catch reports have been submitted. Catch report information will be held confidential.
- Each application and the fee for the Commercial Shellfish Permit shall be submitted to the Shellfish Constable on or before March 31 of the year for which the permit is sought.
- Each application shall be subject to a thirty-day review by the Shellfish Constable.
- A Hardship may be granted upon an application filed after March 31 in a particular year if the applicant demonstrates, to the satisfaction of the Shellfish Committee:
  - a) Hardship may only be granted to those that already hold a Dennis Commercial Shellfish Permit.
  - b) That unique circumstances reasonably excuse a failure to file the application on or before March 31.
  - c) That failure to grant a commercial shellfish permit will result in manifest injustice and substantial hardship to the applicant.
  - d) That granting of a commercial shellfish permit will not affect the opportunity of applicants who filed applications, on or before March 31 to harvest a reasonable quantity of shellfish that year.
  - e) Must write a letter to the Shellfish Committee explaining the hardship. If the Committee decides to recommended a hardship, then it will go to the Select-Board for issue of Commercial Permit.

### **2.4 Possession and Display**

- Possession:
  - All Persons are prohibited from taking shellfish or eels from the coastal waters of the Town without a Shellfish Permit issued by the Town.
- Display:

- All Persons taking, carrying away, or having in their possession shellfish or marine organisms of any kind in any boat, vehicle, or container shall exhibit, on demand of the Shellfish Constable, Deputy Shellfish Constables, or a Police Officer, their permits to take such shellfish.

### **SECTION 3: General Regulations**

1. Commercial Shellfish permits shall not be assigned or transferred.
2. No shellfish shall be taken from any area which the Selectmen or the Shellfish Constable, by the authority of the Selectmen, shall designate from time to time as a closed area.
3. No Commercial Shellfishing in Recreational Only Areas
  - Grand Cove
    - The Area south of the channel between the Two Cove Roads; West of 18 Cove Lane, WD; East of 10 Wheatfield Lane, WD
  - Old Field Bend
    - The cove area behind West Dennis Beach
4. If the Shellfish Constable or Deputy Shellfish Constable has reasonable cause to believe any person is engaged in unlawful shellfishing, is in unlawful possession of shellfish, or in possession of shellfish unlawfully taken, the Shellfish Constable or Deputy Shellfish Constable may, without warrant, search that person's boat, fish car, bag, box, or motor vehicle.
5. At the time of harvest, any commercial permit holder who has shellfish of any kind for sale, must legibly mark all containers of shellfish using legal tags.
6. No person shall dig, take or carry away shellfish or eels between the hours of sunset to sunrise.
7. No commercial fishing on Sunday.
8. When the air temperature reads 32 degrees Fahrenheit (0 degrees Celsius) or lower, no shellfishing shall be permitted except for quahogs, oysters and sea clams.
9. Permit holders shall not employ any person for wages, shares or any other considerations, or permit any person to assist in the taking of shellfish, unless said person shall possess a valid, current commercial shellfish permit issued in the name of said person. This provision shall not apply to a person who is accompanying or operating a boat for a person who has a valid, current commercial shellfish permit and who is not otherwise actively engaged in or assisting in such fishing.
10. A maximum of two commercial permit holders shall be permitted on a commercial boat. Each commercial permit holder shall be actively engaged in the harvesting of shellfish or eels. The limit of shellfish and eels to be taken by each commercial boat shall be the total of the limits of each holder of a commercial shellfish permit who is then actively engaged in the harvesting of shellfish and eels.
11. Permit holders taking quahogs or soft-shell clams shall use only one-half or one-bushel baskets or the legal limit tote.
12. All shellfish shall be brought ashore in the shell.
13. No starfish, lady crabs, green crabs or moon snails shall be returned to the water but shall be placed above the high tide mark or some suitable place out of water.
14. All permit holders shall submit a year-end catch report stating the amount, species, and place of harvest for each calendar year (January 1<sup>st</sup> through December 31<sup>st</sup>). Forms can be picked up at the Natural Resources office at Town Hall or found on the Natural Resources website.

## **SECTION 4: Species-Specific Regulations**

### **4.1 Quahogs**

- No Quahogs to be taken measuring less than one (1) inch thick.
- Limit is four (4) level bushels per day.
  - Three (3) mixed bushels
  - One (1) chowder bushel

### **4.2 Soft Shell Clams**

- No clams to be taken measuring less than two (2) inches lengthwise.
- Limit is one (1) bushel per day for one (1) year, to be reevaluated annually at the November Shellfish Committee meeting.

### **4.3 Razor Clams**

- No razor clams to be taken measuring less than five (5) inches lengthwise.
- Limit is one (1) bushels per day for one (1) year, to be reevaluated annually at the November Shellfish Committee meeting.

•

### **4.4 Oysters**

- The harvest of wild oysters shall be prohibited annually from April 1<sup>st</sup> through November 30<sup>th</sup>.
- No wild oyster to be taken measuring less than three (3) inches lengthwise.
- Limit is one (1) bushel per day.

### **4.5 Scallops**

- Scallop harvesting shall be closed for all areas annually April 1<sup>st</sup> through October 1<sup>st</sup>, per order of the Division of Marine Fisheries Chapter 130 Section 71.
- Nantucket Sound: The open season for the harvest will be posted annually on the Dennis Natural Resources website and at Town Hall.
- Cape Cod Bay and Bass River: The open season for the harvest will be November 1st through March 31st in each calendar year.
- In Bass River: Wilbur Cove, Grand Cove and the flat north of the entrance to Horsefoot Cove will be open to Dennis Family permit holders only.
- Power Dredging
  - Bass River – Boats cannot exceed twenty (20) feet in length.
  - Scallops may be taken by power dredging with boats using not more than two (2) dredges per boat.
  - Each dredge shall not be more than thirty-six (36) inches wide.
- No person shall take scallops, other than adult scallops; an adult scallop shall be a scallop with a well-defined raised growth line and that growth line shall measure at least ten (10) millimeters (mm) from the hinge of the shell.
  - Exception: Bay Scallops that have a well-defined annual growth line located less than ten (10) millimeters (mm) from the hinge of the shell, shall be lawful to harvest and possess if the shell height is at least 63.5 millimeters (mm) or 2.5 inches.
- Scallops, when taken from the water, shall immediately be culled and all scallops, other than adult scallops, shall be returned alive to the water whence taken.

- Must have either bushel baskets or legal limit bushel containers for the harvest of scallops.
- All scallops shall be landed in places designated by the Shellfish Constable.
- Limit will be five (5) bushels per day.
- Limit per boat is two permit holders.

#### 4.6 Blue Mussels

- The area open is in Cape Cod Bay, northerly of the 20ft contour below mean low tide.
- Blue Mussels may be taken by power dredging using not more than two dredges per boat and each dredge shall not be more than 36" wide.
- Limit will be fifty bushels per day per commercial permit holder.
- Limit per boat is two permit holders.
- No blue mussels to be taken less than two (2) inches in length.

#### 4.7 Eels

- Eel Pots: All buoys are to be painted the Town's color- orange- with state permit numbers on all buoys and pots.
  - Minimum mesh size of ½" x ½".
  - Metal or wood buoys may not be used.
- No Fyke Nets allowed.
- No person may fish over 40 pots and they are not to be set in navigable marked channels.
- Open Areas: All of Bass River and Swan River.
- Pots may be pulled on Sunday.
- No eels to be taken less than nine (9) inches in length

### **SECTION 5: Opening and Closing Dates** **All Opening and Closing dates are subject to change**

#### 5.1 Bass River

- Bass River South (SC:33) and Bass River Center (SC:34)
  - Mouth of Bass River northerly to Route 6 Bridge
  - **Open** dates: December 1<sup>st</sup> – May 31<sup>st</sup>
- Bass River North (SC:35) Area North of Route 6 Bridge
  - **Conditionally Open:** May 15<sup>th</sup> – November 30<sup>th</sup>
    - **For Conditional Rules refer to Section 6**
  - Mayfair Boat Yard (SC:35.4)
    - **Open** dates: December 1<sup>st</sup> – May 14<sup>th</sup>
- Per the Select-Board and Shellfish Constable, sections of SC 35.7 known as Follins Pond and Kelleys Bay will be **Closed** December 1<sup>st</sup> – May 14<sup>th</sup> for conservation management purposes.

## **5.2 Swan River/Swan Pond**

- Swan Pond (SC:36.1)
  - Prohibited Year Round from all Shellfishing, except for Eels
- Swan River (SC:36.0)
  - Open December 1<sup>st</sup> – April 30<sup>th</sup>

## **5.3 Nantucket Sound**

- Open Year Round, Except for Scallops (Check Section 4.5 for more information)

## **5.4 Cape Cod Bay**

- Open Year Round, Except for Scallops (Check Section 4.5 for more information)

## **SECTION 6: Bass River North (SC:35.7)**

**MAY 15<sup>th</sup> – NOVEMBER 30<sup>th</sup>**

The sub-area SC:35.7 Bass River North is classified as Conditionally Approved by the Division of Marine Fisheries.

“The waters and flats of Bass River North, in the towns of Dennis and Yarmouth, north of the Route 6 Bridge: east of the line drawn south from Point of Rocks to the end of Beach Road in the Town of Yarmouth and outside an area defined by a 100’ boundary around the outermost fixed structures (floats, docks, and piers) of Mayfair Boatyard.”

1. There will be no shellfishing permitted before 8:30am during the period the area is classified as “Conditionally Approved”.
2. When more than 0.20 inches of precipitation is collected within the 24-hour period (8:00am-8:00am), the area will be closed to shellfishing for a period of four (4) days and reopen on the fifth (5<sup>th</sup>) day.
3. When two (2) or more inches fall within the 24-hour period, the area will not reopen to shellfishing until the Division of Marine Fisheries changes the status to approved for harvesting.
4. The metal sign located at Follins Pond Landing will be used to notify fisherman if the area is open or closed to the taking of shellfish. The sign will be flipped to open or closed by 8:30am.
5. Commercial fisherman must adhere to these conditions; failure to do so by any party will cause areas to be closed to the taking of shellfish.

## **SECTION 7: Penalties and Fines**

1. The provisions of the regulations may be enforced utilizing the procedures contained in Massachusetts General Law Chapter 40 Section 21D as noncriminal citations.
2. The penalties for violations of the Commercial Shellfishing Regulations or State Regulations shall result in either fines, suspension, or revocation.
3. These penalties will be assigned by the Dennis Natural Resources Department and Shellfish Constable.
4. Fines shall be no less than \$50.00 and no more than \$300.00 per violation.

1<sup>st</sup> Offense: \$50.00

2<sup>nd</sup> Offense: \$150.00

3<sup>rd</sup> Offense: \$300.00

4<sup>th</sup> Offense: Suspension for the remainder of Calendar year

5. Revocation of Permits:

The Shellfish Constable reserves the right to revoke any such permit for particularly egregious violations and/or pattern of abuse of the regulations. In the event that a permit is revoked, that individual may not harvest shellfish in the Town nor aboard any vessel which is actively engaged in shellfishing until their permit is restored.

6. Appeals of Penalties:

- For revocations and suspensions: appeal will be done at a public hearing with the Select-Board. This will be held within 30 days of revocation or suspension.
- For fines: Appeal instructions on back of non-criminal citations.

## **SECTION 8: Other Types of Shellfish**

All other types of shellfish not mentioned in the Species-Specific Regulations section are under the control of the Division of Marine Fisheries and require State Permits.

These shellfish include, but are not limited to:

Lobster

Surf Clam

Ocean Quahog

Blue Crab

Whelk (Conch)

Horseshoe Crab

Please refer to Regulations of Catches; CMR 322 6.00