

## Team Enforcement: Key to healthy shellfish

Raking it in: Part VII



Westport Marine Policeman Bob Myer navigates the waters of the Long Island Sound.

*Contributed photo*

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WESTPORT -- Westport Marine Policeman Bob Myer navigates out through the channel from Compo Beach. After 19 years of patrolling the same waterways, Myer knows the location of every rock in the water, and the depth without referring to the fathometer on the 15-foot Boston whaler. Myer scans the horizon, sometimes using binoculars to observe remotely. He knows what he's looking for and, usually, who's out there. Shellfishermen know that when the marine police come around, it's likely to be a friendly call, to affirm that they know that the shellfishing regulations are being enforced.

Myer develops a rapport with the recreational shellfishermen, and sees lots of familiar faces. He knows many of them by name. It's easy for him to play the role of good cop, because nearly all of them know when it's legal to go out, the requirement for a permit, the rules about the permissible size of catch, and what the limits are. And most everyone obeys the rules.

"The commercial guys are pretty good about fishing their own acreages," Myer notes. Sometimes, he will spot recreational shellfishers out there when the highly visible red circular no-shellfishing signs are posted, and that's when Myer instructs them to dump their catch back in the water. The rules are there for a reason: no one wants to eat unclean shellfish.

In addition to making sure that no one takes more than a half-bushel per day, marine police can check the size of the catch. Among the few tools Myer carries is a square with a cut hole, the standard measuring tool for minimum sizes: oysters more than three inches, mussels two inches and hard clams and steamers more than an inch and a half. Each town determines the size of the size of a harvestable catch.

Those size regulations assure sustainability of the shellfish resource. His mission and that of his colleague Kevin Smith, or the newest member of the team, Ryan Paulsson, is a constant: safety, and enforcement of town rules and state regulations.

A few communities, such as Westport, handle their municipal shellfish supervision, but for many others, the state's Department of Energy and Environmental Protection (DEEP) performs significant patrol responsibility.

This kind of enforcement is a collaborative effort between the state and towns that have jurisdiction over their own shellfish beds. Some Connecticut coastal towns do not have this right. In 11 towns, recreational shellfishing is currently not allowed, due to poor water quality, historical pollution sources, or management issues. However, 15 towns or districts, such as Westport and Norwalk, do have authority over their shellfish beds.

These towns create and manage their own programs including transferring shellfish, seeding plans, harvestable shellfish size, permit costs, and other regulations as long as these regulations are in compliance with the Connecticut Department of Agriculture/Bureau of Aquaculture (DA/BA). In fact, the agency depends upon the cooperation and assistance of each town to manage recreational shellfishing in "Approved" or "Conditionally-Approved-Open" areas.

The idea that towns have the authority to control harvesting shellfish within their own waters dates back nearly three hundred years. As early as 1721, as oysters were being recognized as a valuable economic asset, Norwalk limited shellfish harvesting to residents only. Some residents skirted this law by selling their catch to outsiders who lurked just outside the town line. The town response of paying the expenses of residents willing to bring suit against anyone known to be circumventing the law was of little avail.

In the 1760's colonial law authorized towns to protect shellfish within their own waters. Norwalk passed a law that prohibited harvest between May 1st and August 31, the months when oysters spawn. This legislation included an interesting exemption for those categorized as "unless sick or emergency existed" and as well as for "longing" women, presumably pregnant women craving oysters. (Ironically, modern medical authorities such as the Mayo Clinic suggest that women avoid oysters during pregnancy!) Oystermen were also required to place shells or stones in the same spot from which they took oysters so young oysters could set on them and grow.

In 1784 the state legislature mandated that all towns make rules limiting personal catch to two bushels per day and restricting harvesting to town residents.

As the oystering industry grew in the mid-1800's, the public felt increasingly deprived of access to the shellfish beds. In 1845, a Norwalk Town committee was appointed to oversee control of shoreline beds by balancing the interests of oyster companies with those of residents. In 1855 Connecticut law limited coastal towns to grant up to two acres to individuals for planting oysters. Serious oystermen circumvented the limitation by asking their friends and relatives to apply and then to sign over a quitclaim of their acreage, thereby acquiring more acreage.

Thus, it was the circumvention of laws created originally to protect individual interests that led to combinations of larger tracts of shellfish beds, sparking the rise of the commercial shellfishing industry.

By 1880, a million dollar oyster industry had been established in Connecticut and, a year later, the Connecticut Shell-Fish Commission was created to regulate the shellfisheries. As the industry moved its cultivation to deeper waters, regulations came under state control. The Connecticut Shell-Fish Commission wrestled with how to handle properties owned by individuals, those owned by companies, and the new harvesting areas. The previous "2-acre" law was repealed and a plan of perpetual franchises for sale for \$1.10/acre was created. This, in turn, was replaced in 1915 by a ten-year renewable leasing program. These regulations were enacted to protect oyster stock and to try to balance the needs of individuals who harvested shellfish to provide food for their families with the interests of the growing commercial shellfishing industries.

However, the objective of state shellfish management changed during the first half of the 1900's due to rising concerns about the possibility of contaminated oysters, in particular a typhoid epidemic. The Connecticut Shell-Fish Commission tightened health regulations. It was the time of the Pure Food and Drug Act of 1906, a federal law regarding storage and shipping of fresh food, as well as the safe-handling operations of oyster companies.

Through the years, the original Connecticut Shell-Fish Commission became the Bureau of Aquaculture under the Department of Agriculture (DA/BA). David Carey, the current Director of the Bureau of Aquaculture says, "Today's rules are mainly concerned with public health and licensing of commercial activities."

DA/BA works very closely with the shellfish industry, leasing shellfish beds, licensing and inspecting oyster company operations and, with industry assistance, the planting of culch, the clean oyster shell, to improve the conditions on oyster beds.

Charged with ensuring that shellfish gathered are from certified-clean waters and are safe to eat, the DA/BA staff regularly monitors coliform bacteria, an indicator of possible contamination. Any areas deemed to have levels higher than FDA standards for direct consumption or areas that have received certain levels of rainfall are immediately closed for a minimum of seven days.

Clean water is crucial to the cultivation of shellfish that feed from the very waters upon which they depend. One of the most important and far-reaching environmental statutes ever passed by the U.S. Congress was the Clean Water Act of 1972 which was to be enforced by a newly created federal agency, the Environmental Protection Agency (EPA). This Act, and its subsequent and sometimes controversial amendments and additions, aimed to regulate the discharge of pollutants into United States waterways.

EPA was also charged with enforcing the Ocean Dumping Act of 1972 and the Safe Drinking Water Act of 1974. The enforcement history illustrates the complexity that society faces in protecting water quality. The goal of all these measures was to help improve water quality and give direction for a healthy and productive natural environment that in turn supports healthy shellfish.

In its 2011 session, the state legislature demonstrated its support for a cleaner Long Island Sound, and, therefore, a healthier environment for shellfish. For 2012 and 2013, the State has budgeted \$659 million for the Clean Water Fund, which was established in 1986. This expenditure primarily will help municipalities maintain and upgrade their sewer systems with the goal of keeping waterways clean in addition to directly creating 8,468 jobs and generating thousands more through related economic activity. This is the highest level of funding the state has ever committed for these purposes. For fiscal years 2010-2011, the funding was held at the 2008-2009 level of \$270 million.

Also, the "Preserve Long Island Sound" license plate program was reinstated as well as expanded to encourage donations. The extra fees collected benefit public education, public access, habitat restoration, and research that will provide direction for management decisions regarding the Sound's natural resources.

The recent concern regarding "non-point source pollution" which addresses known pollution from unknown locations, such as storm-water runoff, is gaining considerable attention in environmental and political circles. Many hope that, in 2012, Connecticut will consider legislation for municipal storm-water management which would prevent direct runoff into Long Island Sound following storms, thus improving water quality as well as the amount of time that shellfish beds can remain open for both recreational and commercial harvesting.

Clearly, the efforts to assure water quality and a healthy environment for Long Island Sound need to continue into the future. A study unveiled in early August by the Long Island Sound Citizens Advisory Committee calls for a 10-year, \$6 billion public-private partnership that would, among many other initiatives, create additional oyster and other shellfish beds in Long Island Sound. The proposed work would improve wastewater plants and also reduce life-choking nitrogen in the vital waterway shared by New York and Connecticut.

Though municipal, state and federal regulations and legislation may seem to add a layer of complexity and challenging implementation, the net benefit to the recreational and commercial shellfishermen is a more healthy, sustainable, and economically feasible food supply.

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