

# NSW SHELLFISH PROGRAM SEASONAL CLOSURE POLICY



Department of  
Primary Industries  
Food Authority



## Contents

<b>Policy statement</b> .....	<b>3</b>
<b>Scope</b> .....	<b>3</b>
<b>Requirements</b> .....	<b>3</b>
Considerations for seasonal closures .....	3
<b>Procedure</b> .....	<b>4</b>
1. Voting for seasonal closure .....	4
2. Implementing a seasonal closure .....	4
3. Mechanism for a grower or growers to harvest during seasonal closure .....	4
<b>Records to be kept</b> .....	<b>5</b>



## Policy statement

The safety of harvested shellfish in NSW is underpinned by a regular regime of microbiological, phytoplankton and biotoxin testing.

The sampling required for each shellfish harvest area is set out in each region's respective harvest area management plan, and is undertaken by a sampler approved by the NSW Food Authority.

Each local shellfish program is managed by a local shellfish committee comprising shellfish licence holders who currently operate, or have previously operated, oyster leases in that harvest area. Each local shellfish committee is elected annually from members of the local shellfish program. In accordance with section 148(1)(a) of the NSW Food Regulation 2015 each local committee is responsible for administering, under the direction of the NSW Food Authority, the local shellfish program in the area for which the committee is appointed. This includes overseeing the financial and operational functions of that local shellfish program. These arrangements allow oyster growers to share collective testing costs rather than each grower having to repeat the same testing at considerable extra cost. The NSW Government contributes towards testing costs, with the remaining costs contributed by the members of each local shellfish program.

The testing required to maintain an open harvest status can be expensive. It is an accepted and long standing shellfish industry practice to close harvest areas and avoid testing costs during periods when harvesting is less viable. Factors that may limit viability include seasonal environmental conditions, low consumer demand, or limitations on the quality, size or availability of shellfish to harvest. A seasonal closure, therefore, represents a mechanism to save costs during periods when returns are low.

The purpose of this policy is to clearly set out arrangements for each local shellfish committee to implement a seasonal closure if a majority of members covered by a local shellfish program consider that a seasonal closure is beneficial.

This policy aims to give effect to a long standing shellfish industry practice by providing a fair and transparent process for deciding, implementing and documenting a seasonal closure, and arrangements to be followed when one or more growers wish to harvest during a seasonal closure.

## Scope

This policy applies to all local shellfish programs established under section 144(3) of the Food Regulation 2015, and which decide to implement a seasonal closure for part of the year.

## Requirements

### Considerations for seasonal closures

All growers covered by each local shellfish program have the right to contribute to any consideration of a seasonal closure for that shellfish program and this consideration should occur at each Annual General Meeting (AGM) or another shellfish program meeting where the agenda specifies consideration of a seasonal closure.

Local shellfish committees play a valuable role in streamlining the day-to-day management of local shellfish programs. However, any decision to implement a seasonal closure, and relevant arrangements, must be supported/agreed by a majority of growers covered by each local shellfish program. These considerations should include whether a seasonal closure will be beneficial and, if so, how it will be implemented and lifted.



The following questions should be considered when determining the need for a seasonal closure:

- Is there a defined season for shellfish harvest in that local shellfish harvest area?
- Is there a limitation on quality, quantity or size of shellfish that affects their marketability at certain times of the year?
- Is there a season/period when certain food safety concerns can be reliably expected in harvest areas (e.g. algal blooms, biotoxin events)?

If a seasonal closure is supported, then the following details also need to be agreed by a majority of growers covered by the program to which the closure applies:

- The date when the seasonal closure will commence, or the event that will trigger the seasonal closure (e.g. first rainfall related closure after May)
  - if there is a trigger, how growers will be notified that the closure has occurred
- The date when the seasonal closure will end
- Arrangements to end the seasonal closure and resume harvesting
  - how growers will be notified that the closure has ended and harvesting has resumed
- Arrangements for an individual grower or growers to undertake and fund the testing required to continue harvesting during the seasonal closure (see 3 below).

## Procedure

### 1. Voting for seasonal closure

The local shellfish program AGM provides an ideal opportunity to consider and ratify this policy. It is recommended that all local shellfish programs take this opportunity and also reaffirm their commitment to the policy each year.

Any decision to implement a seasonal closure and decide the details of the closure must be made at a local shellfish program meeting where the agenda specifies consideration of a seasonal closure (usually the AGM). A majority of members covered by the local shellfish program must be present at that meeting and a motion must be passed by majority vote in favour of the seasonal closure and its related details. Minutes must be taken and kept for this meeting, including all seasonal closure decisions.

### 2. Implementing a seasonal closure

The local shellfish program coordinator must advise all local shellfish program members and the NSW Food Authority that the seasonal closure has been implemented. This advice must occur via the established communication pathway adopted by the local shellfish program. Local harvest area routine sampling can cease once the seasonal closure has commenced and all relevant parties have been advised.

### 3. Mechanism for a grower or growers to harvest during seasonal closure

While local shellfish programs allow growers to share testing costs and seasonal closure allows growers to reduce costs when returns are low, some growers may still wish to harvest during a seasonal closure.

In this event the cost of opening and maintaining the open status is the responsibility of the grower or growers wishing to harvest as follows:

- One grower only – the grower pays all testing costs and is the only grower permitted to harvest;
- Two growers only – the two growers share testing costs and they are the only growers permitted to harvest;
- Three or more growers – the local shellfish program pays all testing costs and all growers covered by that program are permitted to harvest.
  - If a single grower wishes to harvest:
    - The grower advises the local coordinator of their intent to open the area for harvest.
    - The coordinator arranges samples to be taken to assess harvest area for re-opening.
    - The grower requesting the harvest area opening pays all testing costs (payment is made directly to the laboratory). Note that some local shellfish programs also charge a sampling fee to cover fuel and labour costs associated with sampling.
    - Once the Food Authority receives the test results, and provided these results comply with the local harvest area management plan, the Food Authority will open the harvest area but only to the grower who paid for the testing.
  - If a second grower wishes to harvest:
    - The second grower advises the coordinator of their intent to harvest.
    - The second grower is required to contribute equally, i.e. pay half the cost of the initial testing undertaken to open the harvest area and ongoing testing costs required to maintain the open status for as long as the second grower wishes to harvest.
    - Subject to satisfactory test results, the Food Authority will then also allow that second grower to harvest.
  - If three or more growers wish to harvest, the local shellfish program will pay for all testing costs and, subject to satisfactory test results, all growers covered by that program are permitted to harvest.

## Records to be kept

A record of each local shellfish program seasonal closure decisions, including the agenda and minutes of the meeting at which the decisions were agreed and accepted, are to be kept by the local shellfish program secretary and a copy forwarded to the NSW Shellfish Program.



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