

“PERTAINING TO THE TAGGING OF SHELLFISH”

CHAPTER 4VAC20-1250-10 ET SEQ.

PREAMBLE

This chapter establishes a method of identifying, with the use of shellfish tags, any harvest of shellfish from Virginia waters. This chapter is promulgated pursuant to the authority contained in §§28.2-201 and 28.2-801 of the Code of Virginia. This chapter amends and re-adopts, as amended, previous chapter 4VAC20-1250-10 et seq. which was adopted on April 26, 2011 and made effective on May 1, 2011. The effective date of this chapter is May 31, 2012.

4VAC20-1250-10. Purpose.

The purpose of this chapter is to establish a method of identifying harvested shellfish, according to its original Virginia harvest area, at any time of the year.

4VAC20-1250-20. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

“*Bulk shellfish tag*” means a shellfish tag that shall only be used for shellfish harvested from a single harvest area, in any one day, and accompanies a conveyance containing multiple containers of shellfish.

“*Certified dealer*” means a person to whom certification is issued, by the Virginia Department of Health, for the purposes of introducing shellfish into commerce.

“*Certified dealer tag*” means a shellfish tag, which is approved by the Virginia Department of Health Division of Shellfish Sanitation, that shall only be used for shellfish harvested from a single harvest area, in any one day, and those shellfish are either loose in a conveyance or in a single container.

“*Container*” means any bag, box, sack, tote, or other receptacle that contains shellfish to be held, in any type of conveyance, for transport from the harvest area to the landing site and from the landing site to the point of sale or other use.

“*Conveyance*” means any form of transport, either mechanical, such as a boat or truck, or non-mechanical, that is used to transport shellfish from the harvest area to the landing site or from the landing site to a certified dealer or other use.

“*Direct marketing*” means any shellfish or shellstock that is landed and sold without any post-harvest processing.

“*Harvest*” means the act of removing any shellfish or shellstock from a designated harvest area and placing that shellfish or shellstock in a container or on or in a conveyance.

“PERTAINING TO THE TAGGING OF SHELLFISH”**CHAPTER 4VAC20-1250-10 ET SEQ.**

“*Land*” or “*landing*” means to (i) enter port with finfish, shellfish, crustaceans, or other marine seafood on board any boat or vessel; (ii) begin offloading finfish, shellfish, crustaceans, or other marine seafood; or (iii) offload finfish, shellfish, crustaceans, or other marine seafood.

"Oysters" mean those oysters 2-1/2 inches or greater in shell length.

“*Restricted-use shellstock*” means shellstock or shellfish harvested from approved shellfish growing areas that shall not be sold for direct marketing or raw consumption.

“*Restricted-use shellstock tag*” means a Virginia Marine Resources Commission-issued green tag that shall only be used by a certified dealer who has a current Certificate of Inspection as a Shucker Packer, for shellstock or shellfish harvested from a single harvest area in any one day, and use of any such tag indicates that shellstock is intended for further processing, prior to distribution to retail or food service.

"Shellfish" or “*shellstock*” means all species of bivalve molluscan shellfish.

“*Single harvest area*” means one of the water areas established by the Virginia Marine Resources Commission for reporting fisheries statistics.

“*Shellfish harvester tag*” means a shellfish tag that shall only be used for shellfish harvested from a single harvest area, in any one day, and those shellfish are either loose in a conveyance or in a single container.

“*Shucker Packer*” means a person who shucks and packs shellfish under a Certificate of Inspection issued by the Virginia Department of Health, Division of Shellfish Sanitation.

“*Temperature control*” means management of the environmental temperature, by means of ice or mechanical refrigeration, which is capable of lowering the temperature of the shellstock and maintaining it at 50°F (10°C) or less, as approved by the Virginia Department of Health, Division of Shellfish Sanitation.

4VAC20-1250-30. Shellfish identification.

A. Any person harvesting shellfish for commercial purposes shall affix a shellfish harvester tag to each container of shellfish, except as provided in 4VAC20-1250-30 E, before leaving any single harvest area. The shellfish harvester tag shall remain in place while the shellfish are transported from the harvest area to the landing site and from the landing site to a certified dealer, or for any other use. Any transport of shellfish to a certified dealer requires that the shellfish harvester tag remain affixed to each container of shellfish until the container is emptied or shipped and re-tagged by a certified dealer.

"PERTAINING TO THE TAGGING OF SHELLFISH"

CHAPTER 4VAC20-1250-10 ET SEQ.

B. The shellfish harvester tag, the bulk shellfish tag, and the green restricted-use shellstock tag shall be durable, waterproof, approved by the Virginia Marine Resources Commission or the Virginia Department of Health prior to use, and shall be at least 13.8 square inches in size.

C. The shellfish harvester tag shall contain all of the following indelible and legible information, in the following order:

1. The harvester's Virginia Marine Resources Commission identification number or Virginia Marine Resources Commission oyster aquaculture harvester permit number or clam aquaculture harvester permit number;
2. The date of harvest, time that any shellfish harvest began, and time that harvested shellfish were offloaded and placed under temperature control;
3. An acknowledgement of whether or not those shellfish, described in subdivision 2 of this subsection, were placed in a Virginia Department of Health, Division of Shellfish Sanitation-approved storage container with a layer of ice that continuously and completely covered the oysters;
4. The most accurate identification of the harvest location or aquaculture site, including the abbreviated name of the state of harvest and the Virginia Marine Resources Commission's designation of the growing area by indexing, administrative, or geographic designation, and the minimum identification requirement shall be to specify a single harvest area from the listing, as described in 4VAC20-1250-50;
5. The type and quantity of harvested shellfish; and,
6. The following statement, in bold capitalized letters: "THIS TAG IS REQUIRED TO BE ATTACHED, UNTIL THE CONTAINER IS EMPTY OR IS RE-TAGGED, AND THEREAFTER KEPT ON FILE FOR 90 DAYS."

D. For any quantities of shellfish commercially harvested from a single harvest area, in any one day, that are loose and not containerized aboard any conveyance, the harvester shall prepare a shellfish harvester tag for that quantity of shellfish, which shall accompany that quantity of shellfish during transport from the single harvest area to the landing site and from the landing site to a certified dealer, or for any other use.

E. When multiple containers of shellfish are harvested from a single harvest area, in any one day, and placed in any conveyance, the lot may be tagged with a bulk shellfish tag, for that quantity of shellfish, which shall accompany that quantity of shellfish during transport from the harvest area to the landing site and from the landing site to a certified dealer, or for any other use. In addition to the information required in 4VAC20-1250-30 C, any bulk shellfish tag shall also include:

“PERTAINING TO THE TAGGING OF SHELLFISH”**CHAPTER 4VAC20-1250-10 ET SEQ.**

1. The following statement in bold capitalized letters: "ALL SHELLFISH CONTAINERS IN THIS LOT HAVE THE SAME HARVEST DATE AND ARE FROM A SINGLE AREA OF HARVEST"; and,
2. The number of individual containers in the lot.

F. Certified Shucker Packers shall use a green restricted-use shellstock tag for the harvest of restricted-use shellstock from a single harvest area, in any one day. The restricted-use shellstock tag shall accompany that quantity of shellfish during transport from the harvest area to the landing site and from the landing site to the certified Shucker Packer. In addition to the information required in 4VAC 20-1250-30 C, any restricted-use shellstock tag shall also include:

- 1) The certified Shucker Packer name and address, the Virginia Department of Health, Division of Shellfish and Sanitation certification number and the following statement in bold capitalized letters: "FOR SHUCKING BY A CERTIFIED DEALER OR POST HARVEST PROCESSING ONLY"; and,
- 2) The quantity of restricted-use shellstock in the lot.

G. Certified dealers may use their certified dealer tag in place of a shellfish harvester tag as provided in 4VAC20-1250-30 A, except as provided in 4VAC20-1250-30 F.

4VAC20-1250-40. Penalty.

A. In addition to the penalty prescribed by law, any person violating any provision of this chapter shall destroy, in the presence of a marine police officer, all shellfish in his possession, or, at the direction of the marine police officer, shall place the shellfish overboard on the nearest oyster sanctuary or closed shellfish area and shall cease harvesting on that day. All harvesting apparatus may be subject to seizure, and, pursuant to § 28.2-232 of the Code of Virginia, all licenses and permits may be subject to revocation, following a hearing before the Virginia Marine Resources Commission.

B. As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this chapter shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this chapter committed by the same person, within 12 months of a prior violation, is a Class 1 misdemeanor.

"PERTAINING TO THE TAGGING OF SHELLFISH"

CHAPTER 4VAC20-1250-10 ET SEQ.

4VAC20-1250-50. Designated Single Harvest Areas.

A listing of water area names for use by harvesters to designate harvest areas.

Back Bay	Mobjack Bay
Back River	Nansemond River
Bogue Bay	Nomini River
Bradford Bay	North River
Burton's Bay	North Landing River
Chesapeake Bay Lower East	Outlet Bay
Chesapeake Bay Lower West	Oyster Bay Seaside Eastern Shore
Chesapeake Bay Upper East	Pagan River
Chesapeake Bay Upper West	Pamunkey River
Chickahominy River	Piankatank River
Chincoteague Bay	Pocomoke River
Chuckatuck Creek	Pocomoke Sound
Coan River	Poquoson River
Cobb Bay Seaside Eastern Shore	Potomac Creek
Corrotoman River	Rappahannock River Middle
Currioman River	Rappahannock River Lower
East River	Rappahannock River Upper
Elizabeth River	Rosier Creek
Fleets Bay	Severn Creek
Gargathy Bay	South Bay
Great Wicomico River	Swash Bay
Hog Island Bay	Tangier Sound
Horn Harbor	Upper Machodoc Creek
James River Middle	Upshur Bay
James River Lower	Ware River
James River Upper	Warwick River
Kegotank Bay	Watts Bay
Lafayette River	Willoughby Bay
Little Wicomico River	Winter Harbor
Lower Machodoc Creek	Yeocomico River
Lynnhaven Bay	York River Middle
Magothy Bay	York River Lower
Mattaponi River	York River Upper
Mattox Creek	Ocean Eastern Shore
Metomkin Bay	Ocean Virginia Beach
Milford Haven	

“PERTAINING TO THE TAGGING OF SHELLFISH”

CHAPTER 4VAC20-1250-10 ET SEQ.

This is to certify that the foregoing is a true and accurate copy of the chapter passed by the Virginia Marine Resources Commission, pursuant to authority vested in the Commission by §§ 28.2-201 and 28.2-801 of the Code of Virginia, duly advertised according to statute, and recorded in the Commission’s minute book, at its meeting held in Newport News, Virginia on May 22, 2012.

COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION

By: Jack G. Travelstead
Jack G. Travelstead
Commissioner

Subscribed and sworn to before me this 23rd day of May, 2012.

JANE E. WARREN
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #7191792
My Commission Expires 3/31/16

Jane E. Warren
Notary Public