

VIRGINIA MARINE RESOURCES COMMISSION
“PERTAINING TO THE TAGGING OF SHELLFISH SHELLSTOCK”
CHAPTER 4 VAC 20-1250-10 ET SEQ.

PAGE 1 OF 15

This draft version was modified on 10/16/2024 to include a revised section 50.

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 4 VAC 20-1250-10 et seq., which was adopted on ~~May 22, 2012~~ August 24, 2021 and made effective on ~~May 31, 2012~~ October 1, 2021. The effective date of this chapter is ~~October 1, 2021~~ January 1, 2025.

4 VAC 20-1250-10. Purpose.

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

4 VAC 20-1250-20. Definitions.

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

“Bulk ~~shellfish~~ shellstock tag” means a ~~shellfish~~ shellstock tag that shall only be used for ~~shellfish~~ shellstock harvested from a single ~~harvest~~ growing 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~~ shellstock into commerce.

"Certified dealer tag" means a ~~shellfish~~ shellstock tag, which is approved by the Virginia

“PERTAINING TO THE TAGGING OF SHELLFISH SHELLSTOCK”**CHAPTER 4 VAC 20-1250-10 ET SEQ.**

Department of Health, ~~Division of Shellfish Sanitation~~, that shall only be used for ~~shellfish~~ shellstock harvested from a single harvest growing 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~~ shellstock to be held, in any type of conveyance, for transport from the ~~harvest growing 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~~ shellstock from the ~~harvest growing 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 growing area~~ and placing that ~~shellfish or~~ shellstock in a container or on or in a conveyance.

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

“Post-harvest processing” means any process which has been validated using National Shellfish Sanitation Program validation procedures.

“PERTAINING TO THE TAGGING OF SHELLFISH SHELLSTOCK”**CHAPTER 4 VAC 20-1250-10 ET SEQ.**

“Replant” or “replanting” means to place after harvest ~~shellfish~~ shellstock into waters as allowable by applicable law or permit.

“Restricted-use shellstock” means shellstock ~~or shellfish~~ harvested from approved ~~shellfish~~ growing areas that shall ~~not be sold for direct marketing or raw consumption~~ only be sold to a certified shucker-packer for the purpose of shucking or post-harvest processing.

“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~~ growing area in any one day. Use of any such tag indicates that shellstock is intended for ~~further processing~~ shucking or for post-harvest processing prior to distribution ~~to retail or food service.~~

~~“Shellfish” or~~ “Shellstock” means all ~~species of bivalve~~ live molluscan shellfish in the shell.

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

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

“Shucker-packer” means a person who shucks and packs ~~shellfish~~ shellstock under a current certificate of inspection issued by the Virginia Department of Health, ~~Division of Shellfish Sanitation.~~

“PERTAINING TO THE TAGGING OF SHELLFISH SHELLSTOCK”**CHAPTER 4 VAC 20-1250-10 ET SEQ.**

“Temperature control” means the use 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~~.

4 VAC 20-1250-30. Shellfish identification.

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

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

C. The ~~shellfish~~ shellstock 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;

“PERTAINING TO THE TAGGING OF ~~SHELLFISH~~ SHELLSTOCK”**CHAPTER 4 VAC 20-1250-10 ET SEQ.**

2. The date of harvest, time that any ~~shellfish~~ shellstock harvest began, and time that harvested ~~shellfish~~ shellstock were offloaded and placed under temperature control;
3. An acknowledgement of whether or not those ~~shellfish~~ shellstock, described in subdivision 2 of this subsection, were placed in a storage container approved by the Virginia Department of Health, Division of Shellfish Sanitation ~~approved storage container~~ with ~~a layer~~ layers 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 growing area from the listing, as described in 4VAC20-1250-50~~; The harvest location shall include the single growing area as described in 4VAC20-1250-50 and shall also include either lease number, public harvest area as described in 4VAC20-720, or aquaculture site.
5. The type and quantity of harvested ~~shellfish~~ shellstock; 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~~, RETAGGED AND THEREAFTER KEPT ON FILE, IN CHRONOLOGICAL ORDER, FOR 90 DAYS."

“PERTAINING TO THE TAGGING OF SHELLFISH SHELLSTOCK”**CHAPTER 4 VAC 20-1250-10 ET SEQ.**

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

E. When multiple containers of ~~shellfish~~ shellstock are harvested from a single ~~harvest~~ growing area, in any one day, and placed in any conveyance, the lot may be tagged with a bulk ~~shellfish~~ shellstock tag, for that quantity of ~~shellfish~~ shellstock, which shall accompany that quantity of ~~shellfish~~ shellstock during transport from the ~~harvest~~ growing area to the landing site and from the landing site to a certified dealer or for transport to any area for replanting. In addition to the information required in subsection C of this section, any bulk ~~shellfish~~ shellstock tag shall also include:

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~~ growing area in any one day. The restricted-use shellstock tag shall accompany that quantity of ~~shellfish~~ shellstock during transport from the

“PERTAINING TO THE TAGGING OF ~~SHELLFISH~~ SHELLSTOCK”**CHAPTER 4 VAC 20-1250-10 ET SEQ.**

~~harvest~~ growing area to the landing site and from the landing site to the certified shucker-packer. In addition to the information required in subsection C of this section, any restricted-use shellstock tag shall also include:

- 1) The ~~certified~~ shucker-packer name and address; the certification number issued by 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 BY A CERTIFIED DEALER 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~~ shellstock harvester tag as provided in subsection A of this section, except as provided in subsection F of this section.

H. All commercially harvested ~~shellfish~~ shellstock shall be tagged by a certified dealer prior to being sold, marketed, consumed, or transported to any location other than to a certified dealer or for replanting.

4 VAC 20-1250-40. 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~~ shellstock in his possession, or, at the direction of the marine police officer, shall place the shellfish overboard on

“PERTAINING TO THE TAGGING OF SHELLFISH SHELLSTOCK”**CHAPTER 4 VAC 20-1250-10 ET SEQ.**

the nearest oyster sanctuary or closed ~~shellfish~~ shellstock growing 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.

4 VAC 20-1250-50. Designated Single Harvest Growing Areas.

A listing of water area names for use by harvesters to designate ~~harvest~~ growing 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

“PERTAINING TO THE TAGGING OF SHELLFISH SHELLSTOCK”**CHAPTER 4 VAC 20-1250-10 ET SEQ.**

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

“PERTAINING TO THE TAGGING OF SHELLFISH SHELLSTOCK”**CHAPTER 4 VAC 20-1250-10 ET SEQ.**

~~Mattaponi River~~ ~~York River Upper~~
~~Mattox Creek~~ ~~Ocean Eastern Shore~~
~~Metomkin Bay~~ ~~Ocean Virginia Beach~~
~~Milford Haven~~

001A Upper Machodoc Creek

001 Rosier Creek

003 Potomac River: Mattox Creek to Currioman Bay

004 Nomini and Currioman Bays

005 Potomac River: Lower Machodoc Creek

006 Gardner, Jackson and Bonum Creeks

007 Potomac River: Yeocomico River

008 Potomac River: Coan River

009 Potomac River: Cod Creek to Hack Creek

010 Little Wicomico River

011 Chesapeake Bay: Smith Point to Fleeton Point

012 Cockrell, Reason and Whays Creek

013 Great Wicomico River

014 Chesapeake Bay: Cranes Creek to Mill Creek

015 Chesapeake Bay: Dividing Creek

016 Chesapeake Bay: Barnes Creek to Windmill Point

018 Oyster, Little Oyster, Windmill Point and Mosquito Creeks

020 Rappahannock River: Carter Creek

“PERTAINING TO THE TAGGING OF SHELLFISH SHELLSTOCK”**CHAPTER 4 VAC 20-1250-10 ET SEQ.**

021L Corrotoman River, Lower

021U Corrotoman River, Upper

022 Rappahannock River: Towles Point to Monaskon

023 Rappahannock River: Monaskon to Farham Creek

024 Rappahannock River: Farnham Creek

025 Rappahannock River: Sharps to Accaceek Point

025A Rappahannock River: Accaceek Point to Tappahannock Bridge

026A Rappahannock River: Tappahannock Bridge to Wares Wharf

026 Rappahannock River: Wares Wharf to Jones Point

027 Rappahannock River: Jones Point to Weeks Point

028 Rappahannock River: Lagrange and Robinson Creeks

029 Rappahannock River: Urbanna and Whiting Creeks

030 Rappahannock River: Meachim Creek

031 Rappahannock River: Locklies and Mill Creeks

032 Rappahannock River: Bush Park, Sturgeon and Broad Creeks

034 Piankatank River, Lower

035 Piankatank River, Upper

037 Gwynn’s Island, Queens Creek to Whites Creek

038 Chesapeake Bay: Winter Harbor and Garden Creek

039 Chesapeake Bay: Horn Harbor and Dyer Creek

040 Mobjack Bay: New Point Comfort to East River

“PERTAINING TO THE TAGGING OF SHELLFISH SHELLSTOCK”**CHAPTER 4 VAC 20-1250-10 ET SEQ.**

- 041 Mobjack Bay: East River
- 042 Mobjack Bay: North River
- 043 Mobjack Bay: Ware River
- 044 Mobjack Bay: Severn River
- 045 Mobjack Bay: Browns Bay and Monday Creek
- 046 York River: Sarah Creek and Perrin River
- 047 York River: Gloucester Point to Allmondsville
- 048 York River: Purtan and Poropotank Bays
- 049 York River: West Point
- 050 York River: Terrapin Point to Camp Peary
- 051 York River: Camp Peary to Yorktown
- 052 York River: Yorktown and Back Creek
- 053 Chesapeake Bay: Poquoson River
- 054 Back River
- 055 Chesapeake Bay: Back River to Old Point Comfort
- 056 Hampton Roads North
- 057 James River: Newport News Point to Blunt Point
- 058 Warwick River
- 059 James River: Blunt Point to Jamestown Island
- 060 James River: Hog Point to Days Point
- 061 Pagan River
- 062 Chuckatuck Creek

“PERTAINING TO THE TAGGING OF SHELLFISH SHELLSTOCK”**CHAPTER 4 VAC 20-1250-10 ET SEQ.**

- 063 Nansemond River
- 064 James River: Days Point to Pig Point
- 065 Elizabeth and Lafayette Rivers
- 066 Hampton Roads South
- 068 Willoughby Spit to Lynnhaven Bay
- 070 Lynnhaven Bay
- 071 Broad and Linkhorn Bays
- 073 Virginia Beach
- 075 Pocomoke Sound: Pocomoke River
- 076 Pocomoke Sound: Messongo and Guilford Creeks
- 077 Pocomoke Sound: Hunting and Deep Creeks
- 078 Tangier, Smith and Fox Islands
- 079 Chesapeake Bay: Chesconessex Creek
- 080 Chesapeake Bay: Onancock and Matchotank Creeks
- 081 Chesapeake Bay: Pungoteague and Butcher Creeks
- 082 Chesapeake Bay: Nandua Creek
- 083 Chesapeake Bay: Craddock Creek
- 084 Chesapeake Bay: Occohannock Creek
- 085 Chesapeake Bay: Nassawadox Creek
- 086 Chesapeake Bay: Hungars and Mattawoman Creeks
- 087 Chesapeake Bay: The Gulf
- 088 Chesapeake Bay: Cherrystone Inlet and Kings Creek

“PERTAINING TO THE TAGGING OF ~~SHELLFISH~~ SHELLSTOCK”**CHAPTER 4 VAC 20-1250-10 ET SEQ.**

- 089 Chesapeake Bay: Cape Charles
- 090 Chesapeake Bay: Old Plantation Creek to Fisherman’s Island
- 093 Seaside: Fisherman’s Island to Smith Point
- 094 Seaside: Smith Island to Sand Shoal Inlet
- 095 Seaside: Sand Shoal Inlet to Great Machipongo Inlet
- 096 Seaside: Great Machipongo Inlet to Wachapreague Inlet
- 097 Seaside: Wachapreague Inlet to Metompkin Inlet
- 098 Seaside: Metompkin Inlet to Gargathy Inlet
- 099 Seaside: Gargathy Inlet to Chincoteague Channel
- 100 Chincoteague Bay West
- 101 Chincoteague and Assateague Islands

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 Hampton, Virginia on October 22, 2024.

**COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION**

By: _____
Jamie L. Green
Commissioner

“PERTAINING TO THE TAGGING OF ~~SHELLFISH~~ SHELLSTOCK”

CHAPTER 4 VAC 20-1250-10 ET SEQ.

Subscribed and sworn to before me this _____ day of _____ 2024.

Notary Public

DRAFT