



SS-1-2023

ROY COOPER

Governor

ELIZABETH S. BISER

Secretary

KATHY B. RAWLS

Director

PROCLAMATION

RE: SHELLFISH TEMPERATURE AND SANITATION CONTROLS

This proclamation supersedes SS-1-2022 dated March 31, 2022. It reestablishes National Shellfish Sanitation Program requirements that mandate measures to control the temperature of shellfish after harvest, and establishes other sanitation requirements for shellfish harvesters, shellfish lease and franchise holders, and certified shellfish dealers.

Kathy B. Rawls, Director, Division of Marine Fisheries, hereby announces that **effective immediately**, the following restrictions shall apply to the harvest, transport, and storage of shellfish (oysters, clams and mussels) taken from Coastal Fishing Waters:

I. TIME PERIOD AND FISHERIES

The following restrictions shall be in effect for all commercial shellfish fishing operations and certified shellfish dealers, as applicable, for the time periods listed below:

- A. Year round for clams and mussels (Tagging, Transport, Storage, Sanitation, Training and Re-submergence Requirements);
- B. October 15 through March 31 for oysters (Tagging, Transport, Storage, Sanitation, Training and Re-submergence Requirements);
- C. June 1 through September 30 (Shading of Clams).

II. TAGGING REQUIREMENTS

- A. **Harvest Tags-** It is unlawful to possess shellfish in a commercial fishing operation without a harvest tag recording the information as described in 15A NCAC 03K .0109, affixed to each container of shellfish. The time of the start of harvest shall be the time when the first shellfish is initially removed from the water.
- B. **Off-site Tags-** It is unlawful to possess oysters greater than 25mm in length, or clams greater than 12mm in length off-site of a shellfish lease or franchise for the purposes of transporting, sorting, grading or cleaning without an off-site tag recording the following information:
 - 1. Shellfish lease or franchise number;
 - 2. Date;
 - 3. Shellfish Growing Area;
 - 4. The time the first shellfish was removed from the water, or in the case of intertidal gear, the time of first exposure by the receding tide; and
 - 5. Number of containers (if bulk off-site tag).

The use of a single bulk off-site tag identifying multiple containers of shellfish to be transported, sorted, graded or cleaned is acceptable if it identifies the number of containers. Off-site tags shall be durable, water resistant, and a minimum of two and five-eighths inches by five and one-fourth

inches in size. If any shellfish are to be harvested after sorting, grading or cleaning activities, a harvest tag is then required to be attached to each container in accordance with Section II. (A) above, with the original time of harvest recorded.

An example off-site tag template is available under the "Education Materials" tab at <https://deq.nc.gov/about/divisions/marine-fisheries/shellfish-sanitation-and-recreational-water-quality/inspections#EducationMaterials-11449> or can be picked up at Division Headquarters.

III. TRANSPORT AND STORAGE RESTRICTIONS

- A. It is unlawful for harvesters to fail to deliver shellfish harvested from Coastal Fishing Waters to a licensed shellfish dealer **within 12 hours of the time of the start of harvest**. When the harvester is also a licensed shellfish dealer, all harvested shellfish shall be delivered to the dealer's licensed and permitted facility location **within 12 hours of the time of the start of the harvest**.
- B. It is unlawful for a licensed shellfish dealer to receive shellfish from Coastal Fishing Waters where the interval between the time of the start of harvest on the harvest tag attached to the container holding the shellfish and the time of receipt **exceeds 12 hours**.
- C. It is unlawful for a licensed shellfish dealer to fail to record the following information at the time of receipt of shellfish from Coastal Fishing Waters:
 - 1. Harvester;
 - 2. Harvest area;
 - 3. Time of the start of harvest;
 - 4. Quantity and type of shellfish received;
 - 5. Time shellfish were received; and
 - 6. Time shellfish were mechanically refrigerated.
- D. It is unlawful for a licensed shellfish dealer to fail to place **shellfish that are received from a harvester at the dealer's facility** under mechanical refrigeration **within two hours of receipt from a harvester**.
- E. It is unlawful for a licensed shellfish dealer to fail to place **shellfish that are received from a harvester away from the dealer's facility** under mechanical refrigeration at the time of the transaction.
- F. It is unlawful for a licensed shellfish dealer to **transport shellfish not meeting the requirements of 15A NCAC 18A .0420**. When a licensed shellfish dealer is also the harvester, refrigeration of shellfish that the individual harvested during the initial transport from harvest to the dealer's facility is excluded from this requirement if delivered in accordance with Section III. (A). above.
- G. It is unlawful for a licensed shellfish dealer to return shellfish to the water after they have been harvested and received by a shellfish dealer without possessing a wet storage permit and certification as by Shellfish Sanitation.

IV. RE-SUBMERGENCE REQUIREMENTS

- A. It shall be unlawful for shellfish lease and franchise holders to fail to comply with the following:

Shellfish greater than seed size (clams 12mm in length, oysters 25 mm in length) must **be re-submerged for a minimum of 21 consecutive days** when they are moved from a shellfish lease or franchise in one growing area to another shellfish lease or franchise in a different growing area. Wet storage permit holders are exempt from this requirement.

- B. It is unlawful to fail to **record all required re-submergence activities in a logbook**, or other Division approved record keeping system, and make available for presentation to Marine Patrol Officers or other Division staff. Minimum re-submergence record entries shall include:

1. Date shellfish are re-submerged;
2. Shellfish lease or franchise number;
3. Quantity, type, and number of containers;
4. Location of re-submerged shellfish on shellfish lease or franchise; and
5. Date re-submergence tags are removed.

A logbook template for use is available under the “Education Materials” tab at <https://deq.nc.gov/about/divisions/marine-fisheries/shellfish-sanitation-and-recreational-water-quality/inspections#EducationMaterials-11449> or can be picked up at Division Headquarters.

- C. It shall be unlawful to fail to **tag containers of shellfish that are required to be re-submerged** on the shellfish lease or franchise. Tags shall be either:

1. Permanent gear tags affixed to each container that each include a unique identifying number. These unique identifying numbers shall be recorded in the re-submergence logbook along with the other items described in Section IV. (B). above.
2. Temporary tags that shall be:
 - a. Orange in color;
 - b. Waterproof;
 - c. Legible;
 - d. Completed using indelible ink and include the date of re-submergence; and
 - e. Recorded with the shellfish lease or franchise number.

The use of a single temporary bulk tag identifying multiple containers of re-submerged shellfish is acceptable if it identifies the number of containers and if the re-submerged shellfish are adequately segregated from other products on the shellfish lease or franchise.

The temporary tag(s) may be **removed after 21 consecutive days of re-submergence**. Plans for broadcast re-submergence of loose shellfish shall be approved by the Division prior to the activity and shall be adequately segregated from other products on the shellfish lease or franchise.

An example tag template is available under the “Education Materials” tab at <https://deq.nc.gov/about/divisions/marine-fisheries/shellfish-sanitation-and-recreational-water-quality/inspections#EducationMaterials-11449> or can be picked up at Division Headquarters.

V. SANITATION REQUIREMENTS

- A. It is unlawful to operate and maintain vessels or vehicles used for the commercial harvest, handling or transport of shellfish in such a manner that allows contact of shellstock with bilge water, standing water or other sources of contamination in the vessel or vehicle.
- B. It is unlawful to allow dogs or other animals on vessels or vehicles used to commercially harvest or transport shellfish.
- C. It is unlawful to discharge human waste overboard from harvest vessels.

VI. SHADING OF CLAMS REQUIREMENTS

It is unlawful to fail to protect clams from sun exposure **from June 1 through September 30** during harvesting, storage, and transport to a licensed shellfish dealer by:

- A. Providing shading over the area where the harvested clams are stored on the harvest vessel, any floating container where the clams are not submerged, transportation conveyance such as vessel or vehicle; or
- B. Directly covering the clams with a light colored, non-toxic material such as a tarp or fabric during the operations in (A) of this Section.
- C. This restriction shall apply at all times during the time period designated in Section I above.

VII. DEALER TRAINING REQUIREMENTS

- A. Shellfish dealers shall ensure that all employees that manufacture, process, pack or hold food are qualified and obtain training in the principles of food hygiene and food safety, including the importance of employee health and personal hygiene, in accordance with 21 CFR 117.4.
- B. Shellfish dealers shall be allowed (30) days following initial hiring of a new employee to provide the required education.
- C. Proof of training for all employees shall be required prior to initial certification or recertification.
- D. The shellfish dealer shall maintain the record of the completed training.

VIII. GENERAL INFORMATION:

- A. This proclamation is issued under the authority of N.C. General Statutes 113-170.4; 113-170.5; 113-182; 113-221.1; 113-221.2; 143B-289.52; and N.C. Marine Fisheries Commission Rules 15A NCAC 03H .0103, 03K .0109, 03K .0110, and 18A .0420.
- B. It is unlawful to violate the provisions of any proclamation issued by the Fisheries Director under their delegated authority pursuant to N.C. Marine Fisheries Commission Rule 15A NCAC 03H .0103.

- C. The National Shellfish Sanitation Program Model Ordinance requires shellfish harvesters to:
 - 1. Keep shellfish out of bilge water and protected from contamination from fuel, oil, and other contaminants;
 - 2. Shade shellfish when necessary to reduce the chance of temperature abuse;
 - 3. Protect shellfish from adulteration and contamination during transport;
 - 4. Prevent cats, dogs, and other animals on harvest vessels or in any conveyance where shellfish is stored; and
 - 5. Prevent overboard discharge of human sewage from harvest vessels.

- D. The following applies to the clam shading requirements in this proclamation:
 - 1. Shading prevents heat buildup in clams from direct sunlight radiation following harvest, and during storage and transportation to the dealer. Elevated temperatures in clams can cause rapid growth of pathogenic *Vibrio* bacteria as well as heat stress that causes excessive mortality in the clams.
 - 2. Adequate air space should be left between shading canopies to reduce heat buildup. Direct coverings such as tarps or fabrics shall be white or a similar light color to prevent heat buildup. Direct heating from the sun can occur even on overcast days so shading shall be provided from June 1 through September 30 at all times during harvesting, storage and transport to a licensed shellfish dealer.

- E. Licensed shellfish dealers are required to keep all shellstock under mechanical refrigeration including delivery conveyances.

- F. The sale of shellfish while on a shellfish lease or another location away from the shellfish dealer facility is subject to applicable shellfish dealer rules and proclamation requirements. Contact N.C. Shellfish Sanitation staff for more information.

- G. In accordance with N.C. General Statute 113-221.1(c), all persons who may be affected by proclamations issued by the Fisheries Director are under a duty to keep themselves informed of current proclamations.

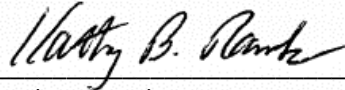
- H. The provisions in this proclamation shall not apply to Polluted Area Relay which occurs under a permit specific for that operation.

- I. These restrictions in this proclamation shall not apply to Shellfish Lease Restoration Permit (SLRP) holders transporting shellfish product for restoration purposes once transport begins from the shellfish lease or franchise.

- J. Contact Shannon Jenkins, Jacob Boyd or Col. Carter Witten at N.C. Division of Marine Fisheries, P.O. Box 769, Morehead City, NC 28557 (252)-726-6827 or 800-682-2632 for more information or visit our website at <https://deq.nc.gov/about/divisions/marine-fisheries/>.

- K. This proclamation supersedes SS-1-2022 dated March 31, 2022. It reestablishes National Shellfish Sanitation Program requirements that mandate measures to control the temperature of shellfish after harvest, as well as other sanitation requirements for shellfish harvesters, shellfish lease and franchise holders, and certified shellfish dealers.

BY:



Kathy B. Rawls, Director

DIVISION OF MARINE FISHERIES, DEQ

March 31, 2023
9:00 A.M.
SS-1-2023