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Governor

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Secretary

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PROCLAMATION

RE: TEMPERATURE AND SANITATION CONTROLS – CLOSED SEASON OYSTER HARVEST

This proclamation supersedes SS-2-2024 dated March 28, 2024. It reestablishes National Shellfish Sanitation Program requirements that mandate measures to control the temperature of oysters after harvest, and establishes new resubmergence and 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 at sunrise on Monday, March 31, 2025**, the following restrictions shall apply to the harvest, transport, and storage of oysters taken from shellfish leases or franchises in Coastal Fishing Waters:

I. TIME PERIOD

The following restrictions shall be in effect for all commercial fishing operations involving oysters, certified shellfish dealers, and persons who ship or buy and sell oysters, as applicable, for the time period of **April 1 through October 14**.

II. TAGGING REQUIREMENTS

- A. **Harvest Tags-** It is unlawful to possess oysters in a commercial fishing operation without a harvest tag recording the information as described in 15A NCAC 03K .0109, affixed to each container of oysters. The time of the start of harvest shall be the time when the first oyster is initially removed from the water or, in the case of intertidal harvest, the time of first exposure by the receding tide.
- B. **Off-site Tags-** It is unlawful to possess oysters greater than 25mm in length off-site of a shellfish lease or franchise for the purposes of transporting, sorting, grading, cleaning, or other pre-harvest cultivation practices 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 oyster 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 oysters 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 oysters 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 deq.nc.gov/shellfish-sanitation-education or can be picked up at Division Headquarters.

III. TRANSPORT AND STORAGE RESTRICTIONS

- A. It is unlawful for harvesters to fail to deliver oysters harvested from shellfish leases or franchises in Coastal Fishing Waters to a licensed shellfish dealer **within 12 hours of the time of the start of harvest from April 1 through April 30**. When the harvester is also a licensed shellfish dealer, all harvested shellfish shall be delivered to a licensed and permitted dealer facility **within 12 hours of the time of the start of the harvest**.
- B. It is unlawful for harvesters to fail to deliver oysters harvested from shellfish leases or franchises in Coastal Fishing Waters to a licensed shellfish dealer **within 5 hours of the time of the start of harvest from May 1 through October 14**. When the harvester is also a licensed shellfish dealer, all harvested shellfish shall be delivered to a licensed and permitted dealer facility **within 5 hours of the time of the start of the harvest**.
- C. It is unlawful for a licensed shellfish dealer to receive oysters from Coastal Fishing Waters where the interval between the time of the start of harvest on the harvest tag attached to the container of oysters and the time of receipt **exceeds 12 hours from April 1 through April 30**.
- D. It is unlawful for a licensed shellfish dealer to fail to place **oysters that are received from a harvester at the dealer’s facility** under mechanical refrigeration **within two hours of receipt from a harvester from April 1 through April 30**.
- E. It is unlawful for a licensed shellfish dealer to fail to place **oysters 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, or any other business or person that ships or buys and sells shellfish, to **transport oysters not meeting the requirements of 15A NCAC 18A .0420**. When a licensed shellfish dealer is also the harvester, refrigeration of shellfish that individual harvested during the initial transport from harvest to a dealer facility is excluded from this requirement if delivered in accordance with Section III. (A). or III (B). above, as applicable.
- G. It is unlawful for a licensed shellfish dealer to receive oysters from shellfish leases or franchises where the interval between the time of the start of harvest on the harvest tag attached to the container of oysters and the time of receipt **exceeds 5 hours from May 1 through October 14**.
- H. It is unlawful for a licensed shellfish dealer to fail to place oysters under mechanical refrigeration **within 5 hours after start of harvest from May 1 through October 14**.
- I. It is unlawful for a licensed shellfish dealer to fail to **chill oysters received from shellfish leases or franchises to an internal temperature of 50° F or less within 10 hours and prior to shipment or sale from May 1 through October 14**.

- J. It is unlawful for a licensed shellfish dealer to fail to record the following information when receiving oysters from shellfish leases or franchises in 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.
 - 7. Time shellfish reached 50° F or below (between May 1 – Oct 14).
- K. It is unlawful for a licensed shellfish dealer to return oysters to the water after they have been harvested and received by a shellfish dealer without possessing a wet storage permit and certification by Shellfish Sanitation.

IV. RE-SUBMERGENCE REQUIREMENTS

- A. From **May 1 through October 14**, for **oysters greater than 25 mm in length that have been exposed to the air for more than 5 hours**, it is unlawful for a shellfish lease or franchise holder to fail to **completely re-submerge these oysters for a minimum of 7 consecutive days** on the original shellfish lease or franchise prior to subsequent harvest. This includes pre-harvest activities such as sorting, cleaning, transportation, grading and air-drying or defouling that **exceed 5 hours**, including the use of gear such as OysterGro or adjustable longlines that expose oysters to air and sunlight during aquaculture practices. This provision does not apply to oysters after harvest has occurred.
- B. From **May 1 through October 14**, for **oysters greater than 25 mm in length that are removed from a shellfish lease or franchise for pre-harvest activities such as sorting, cleaning, grading, etc. and are not returned back to the shellfish lease or franchise prior to sunset**, it is unlawful for a shellfish lease or franchise holder to fail to **completely re-submerge those oysters for a minimum of 14 consecutive days** on the original shellfish lease or franchise prior to subsequent harvest. This provision does not apply to oysters after harvest has occurred.
- C. It shall be unlawful to fail to comply with the following:

Oysters greater than seed size (25 mm in length) must **be re-submerged for a minimum of 21 consecutive days** when they are moved from one growing area to a shellfish lease or franchise in a different growing area. Wet storage permit holders are exempt from this requirement.
- D. 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. Source growing area if different from the shellfish lease or franchise growing area
2. Date oysters are re-submerged;
3. Shellfish lease or franchise number;
4. Quantity, type, and number of containers;
5. Location of re-submerged oysters on shellfish lease or franchise; and
6. Date re-submergence tags are removed.

A logbook template for use is available under the "Education Materials" tab at deq.nc.gov/shellfish-sanitation-education or can be picked up at Division Headquarters.

- E. It shall be unlawful to fail to **tag containers of oysters 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. (C). above.
 2. Temporary tags that shall be:
 - a. Orange in color, or white in color with orange stripes that are at least 1/4" in width;
 - 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 oysters is acceptable if it identifies the number of containers and if the re-submerged oysters are adequately segregated from other products on the shellfish lease or franchise.

The temporary tag(s) may be removed **after 7 consecutive days of re-submergence in accordance with IV (A) above, 14 consecutive days of re-submergence in accordance with IV (B) above, or 21 consecutive days of re-submergence in accordance with IV (C) above.** 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: deq.nc.gov/shellfish-sanitation-education or can be picked up at Division Headquarters.

V. SHADING REQUIREMENTS

It is unlawful to fail to protect oysters from sun exposure **from May 1 through October 14** during harvesting, storage, and transport to a certified shellfish dealer by:


- A. Providing shading over the area where the harvested oysters are stored on the harvest vessel, any floating container where the oysters are not submerged, transportation conveyance such as vessel or vehicle; or

- B. Directly covering the oysters with a light colored, non-toxic material such as a tarp or fabric during the operations in (A) of this Section.

VII. 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, 18A .0420, and 18A .0421.
- 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. 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.
- D. 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;
 - 5. Prevent overboard discharge of human sewage from harvest vessels.
- E. The temperature control requirements of oysters after harvest in this proclamation reduce the risk of *Vibrio* illness by limiting the post-harvest growth of pathogenic *Vibrio* bacteria.
- F. The re-submergence requirements in this proclamation allow *Vibrio* bacteria that may have become elevated in oysters during pre-harvest culture activities due to air exposure to return to background levels prior to harvest.
- G. The following applies to the oyster shading requirements in this proclamation:
 - 1. Shading prevents heat buildup in oysters from direct sunlight radiation following harvest, and during storage and transportation to the dealer. Elevated temperatures in oysters can cause rapid growth of pathogenic *Vibrio* bacteria.
 - 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 **May 1 through October 14** at all times during harvesting, storage, and transport to a licensed shellfish dealer.

- H. 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.
- I. The provisions in this proclamation shall not apply to Seed Oyster Management, or Shellfish Relocation which occur under a permit specific for those operations.
- J. The 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.
- K. Contact Shannon Jenkins, Zach Harrison, or Col. Carter Witten at N.C. Division of Marine Fisheries, P.O. Box 769, Morehead City, NC 28557, phone: 252-515-5656 or 800-682-2632 for more information or visit our website at <https://deq.nc.gov/about/divisions/marine-fisheries/>.
- L. This proclamation supersedes SS-2-2024 dated March 28, 2024. It reestablishes National Shellfish Sanitation Program requirements that mandate measures to control the temperature of oysters after harvest and establishes new resubmergence and 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

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