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Exempt Action: Final Regulation Agency Background Document

Agency name	Virginia Marine Resources Commission
Virginia Administrative Code (VAC) Chapter citation(s)	4 VAC 20-1250
VAC Chapter title(s)	Pertaining to the Tagging of Shellfish
Action title	Modification of identifying harvested shellfish to align with the NSSP's tagging requirements.
Final agency action date	January 1, 2025
Date this document prepared	August 6, 2024

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The Virginia Marine Resources Commission (VMRC) proposes to amend Chapter 4VAC20-1250-10 et seq., "Pertaining to the Tagging of Shellfish", to modify the method of identifying harvested shellfish to align with the National Shellfish Sanitation Program's tagging requirements to increase public safety and protect the shellfish resource.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the

ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

[Mandate] VMRC is authorized by § 28.2-201 of the Code of Virginia to promulgate regulations and guidelines necessary to carry out the provisions of Title 28.2.

[Impetus] The proposed amendments will enhance the specificity of shellfish harvest locations in Virginia. By aligning Virginia’s regulations with the latest National Shellfish Sanitation Program standards, these changes will improve the traceability of molluscan shellfish harvested in the state. Specifically, the amendments incorporate updated growing areas identified by the Virginia Department of Health and mandate that shellfish tags include the growing area and either the lease number or public harvest area.

The National Shellfish Sanitation Program (NSSP) is the federal/state cooperative program recognized by the U. S. Food and Drug Administration (FDA) and the Interstate Shellfish Sanitation Conference (ISSC) for the sanitary control of shellfish produced and sold for human consumption. The purpose of the NSSP is to promote and improve the sanitation of shellfish (oysters, clams, mussels and scallops) moving in interstate commerce through federal/state cooperation and uniformity of State shellfish programs. Participants in the NSSP include agencies from shellfish producing and non-producing States, FDA, EPA, NOAA, and the shellfish industry. Under international agreements with FDA, foreign governments also participate in the NSSP. Other components of the NSSP include program guidelines, State growing area classification and dealer certification programs, and FDA evaluation of State program elements.

The latest revision to the NSSP Guide for the Control of Molluscan Shellfish introduces more detailed guidelines for identifying shellfish harvest areas, enhancing traceability and safeguarding both the public and industry against potential disease outbreaks.

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

This is to certify that the foregoing is a true and accurate copy of the chapter (4VAC20-1250-10 et seq., “Pertaining to the Tagging of Shellfish”, passed by the Marine Resources Commission, pursuant to authority vested in the Commission by §28.2-201 of the Code of Virginia, duly advertised according to statute, and recorded in the Commission’s minute book, at meeting held in Hampton, Virginia on October 22, 2024.