

DEPARTMENT OF MARINE RESOURCES

CHAPTER 9

HARVESTER: SHELLSTOCK HARVESTING, HANDLING AND SANITATION

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DEPARTMENT OF MARINE RESOURCES

Chapter 9 HARVESTER: SHELLSTOCK HARVESTING, HANDLING AND SANITATION

9.01 Compliance

- A. Closed Area compliance: Harvest of shellstock is prohibited in areas that are closed due to marine biotoxins pursuant to Chapter 96 and bacterial pollution pursuant to Chapter 95, and in those areas that may be closed by the Department. For details about closure lines contact Marine Patrol Division I, west of Port Clyde, Tel. (207) 633-9595 or Marine Patrol Division II, east of Port Clyde, Tel. (207) 667-3373, or telephone the Shellfish Sanitation Hotline at 1-800-232-4733 or on the web at: <http://www.maine.gov/dmr/shellfish%20sanitation%20hot%20line.htm>.
- B. Commingling of shellstock is prohibited, except that primary dealers, as defined in Chapter 15.02(65), who are authorized by the Department in accordance with Chapter 16.21(C), may commingle shellstock.
- C. Harvesters may not conduct wet storage activities. Wet storage of shellstock is prohibited, except by certified dealers pursuant to a current permit issued by the Department in accordance with Chapter 15.
- D. Harvesters licensed pursuant to 12 M.R.S. §6601, §6731, §6732, §6745 and §6746 may sell shellstock the holder has taken only to wholesale seafood license holders certified in accordance with §6856. Exception: a harvester license holder may sell shellstock the holder has taken from that license holder's home in the retail trade pursuant to §6601 and to the holder of an enhanced retail seafood license pursuant to 12 M.R.S. §6852(2).
- E. In cases where a harvester is also a certified dealer, until the shellstock harvested by the licensee is sold to a wholesale seafood license holder certified under §6856, the licensee shall comply with all harvester laws and rules.
- F. Shellstock harvested by a licensed shellfish harvester shall be tagged, with the harvester tag pursuant to Chapter 9.06, at the harvest location (Chapter 9.06(A)) and until the first point of sale, to a certified dealer's permanent facility unless otherwise described below:
 1. Shellstock harvested by persons who are issued an aquaculture lease pursuant to 12 M.R.S.A. §6072 or §6072-A, a limited-purpose aquaculture (LPA) license pursuant to 12 M.R.S.A. §6072-C and persons permitted pursuant to Chapter 24.05 who hold a valid shellfish harvester license shall be tagged with a harvester tag pursuant to Chapter 9.06.
 2. Shellstock harvested by persons who are issued an aquaculture lease pursuant to 12 M.R.S.A. §6072 or §6072-A, a limited-purpose aquaculture (LPA) license pursuant to 12 M.R.S.A. §6072-C and persons permitted pursuant to Chapter 24.05 who hold a valid shellfish harvester license, and which are sold to a dealer certified pursuant to §6856, shall be tagged with a harvester tag pursuant to Chapter 9.06;
 - (a) Exception: for mussels, quahogs (includes mahogany quahogs), surf clams and oysters at the point of landing pursuant to Chapter 15.18 and 15.19; and
 3. Shellstock harvested by persons who are issued an aquaculture lease pursuant to 12 M.R.S.A. §6072 or §6072-A, a limited-purpose aquaculture (LPA) license pursuant to 12 M.R.S.A. §6072-C and persons permitted pursuant to Chapter 24.05 who hold a valid shellfish harvester license and are certified pursuant to 12 M.R.S.A. §6856 shall be landed with a harvester tag attached pursuant to Chapter 9.06, and such tag shall remain in place until the shellstock is processed and ready for shipment, at which point the certified dealers tag shall be affixed in accordance with Chapter 15.18.

4. Shellstock harvested by licensed mussel and mahogany quahog draggers shall be tagged with a harvester tag pursuant to Chapter 9.06 until the first point of sale at the certified dealer's permanent facility unless the dealer affixes the tag at the point of sale pursuant to Chapter 15.18 and 15.19.
5. Shellstock harvested by licensed mahogany quahog and mussel draggers who are certified pursuant to 12 M.R.S.A. §6856 shall be landed with a harvester tag pursuant to Chapter 9.06 until product is processed, at which point the dealer tag shall be affixed pursuant to Chapter 15.18.

9.02 Shellstock Washing

- A. Shellstock must be washed such as to be reasonably free of bottom sediments as soon after harvest as practicable.
- B. Shellstock must be culled of dead, broken or gaping shellfish as soon after harvest as practicable and prior to presentation for direct market or delivery to a certified dealer.
- C. The harvester must wash the shellstock using one of the following methods:
 1. Wash the shellstock using water from a growing area classified as approved or conditionally approved in the open status at the time and place of harvest; or
 2. If shellstock washing is not feasible at the time of harvest, the certified dealer shall be responsible for washing using only water from an approved source.
- D. Shellstock may not be placed in containers of stagnant water.
- E. Depuration harvesters may use growing area water in the restricted or conditionally restricted classification in the open status to wash shellstock at the time and place of harvest.

9.03 Protection from Contamination

- A. Shellstock must be handled in a manner as to be protected from contamination. Examples of conditions creating a potential for contamination include, but are not limited to, shellstock transferred, held or transported with boat motors, engine oil, antifreeze, dead animals, dirty tarps, bilge water, polluted overboard water, closed area water, stagnant water, etc. Shellstock handled in a manner creating a potential for contamination shall be subject to immediate embargo and/or destruction as being of unsound or unknown quality, and therefore, unsafe for human consumption.
- B. Containers used for storing shellstock must be fabricated from safe materials, cleaned and maintained in a manner and frequency as necessary to protect shellstock from contamination.
- C. Shellstock held or washed in closed area water shall be subject to immediate embargo and/or destruction as being of unsound or unknown quality, and therefore, unsafe for human consumption.
- D. Once landed, shellstock held or washed in water containing any other macro marine organism(s), such as lobsters, finfish, invertebrates, etc., shall be subject to immediate embargo and/or destruction as being of unsound or unknown quality, and therefore, unsafe for human consumption.
- E. Shellstock placed in containers of stagnant water shall be subject to immediate embargo and/or destruction as being of unsound or unknown quality, and therefore, unsafe for human consumption.

9.04 Shellfish Harvester Vessels

- A. Vessels

1. All harvester vessel operators must ensure that any vessel used to harvest, handle, transfer and/or transport shellstock is properly constructed, operated and maintained to prevent contamination, deterioration and decomposition of the shellstock.
2. Vessels and all other equipment coming into contact with shellstock during harvest, handling, transfer and/or transport of the shellstock must be constructed in a manner and with materials that can be cleaned and maintained, repaired and/or replaced.
3. Decks or the floor of an open vessel upon which shellstock are placed, and any containers in which the shellstock are placed, shall be constructed and or located as to prevent bilge water or polluted overboard water from coming into contact with the shellstock.
4. Bilge pump discharges must be located so that the discharge does not contaminate shellstock.
5. Boat decks and containers used in the harvest, handling, transfer and/or transport of shellstock must be:
 - (a) Kept clean with water from a growing area in the approved classification or in the open status of the conditionally approved classification; and
 - (b) Provided with effective drainage.
6. When necessary, effective coverings shall be provided on harvest boats to protect shellstock from contamination including but not limited to exposure to sun, birds or other adverse conditions.
7. Cats, dogs and other animals must not be allowed on the vessel except for patrol dogs when accompanying security or police officers.

B. Disposal of Human Sewage From Vessels

1. Human sewage must not be discharged overboard from a vessel used in the harvesting of shellstock while the vessel is in the growing area.
2. An approved marine sanitation device (MSD), portable toilet or other sewage disposal receptacle must be provided on the vessel to contain human sewage.
3. Portable toilets must:
 - (a) Be required on all boats when the vessel is in use for over 6 hours to contain human sewage;
 - (b) Be used only for the purpose intended;
 - (c) Be secured while on board and located to prevent contamination of shellstock by spillage or leakage;
 - (d) Be emptied only into a sewage disposal system;
 - (e) Be cleaned before being returned to the boat; and
 - (f) Not be cleaned with equipment used for washing or processing food.
4. Use of other receptacles for sewage disposal may be approved by the Department if the receptacles are:
 - (a) Constructed of impervious, cleanable materials and have tight fitting lids;
 - (b) Meet the requirements in Chapter 9.04(B)(3); and
 - (c) Labeled clearly with "Sewage only" or equivalent language.

9.05 Conveyances Used to Transport Shellstock

- A. All conveyances used to transport shellstock to the original dealer must be properly constructed, operated and maintained to prevent contamination, deterioration and decomposition of the shellstock.

Conveyances and all other equipment coming into contact with shellstock during transport must be constructed in a manner and with materials that can be cleaned and maintained, repaired and/or replaced.

- B. Containers on conveyances used in the transport of shellstock must:
1. Be kept clean;
 2. Provide effective drainage; and
 3. When necessary, be covered to provide protection from contamination.
- C. When transporting shellstock to the original dealer within the applicable time to temperature controls in Chapter VIII Section .02 A (1), (2) and (3) of the National Shellfish Sanitation Program Model Ordinance (referred to as "Model Ordinance") the temperature inside the conveyance shall not exceed the ambient air temperature when the ambient air temperature is above 50° Fahrenheit (10° Centigrade).¹
- D. When mechanical refrigeration units are used, the units shall be:
1. Equipped with automatic controls; and
 2. Maintained at an ambient air temperature necessary to comply with Chapter 9.05(C) above.
- E. Any ice used to cool shellstock during transport shall be from an approved source.
- F. Cats, dogs and other animals must not be allowed in any part of the conveyance where shellstock are stored except for patrol dogs when accompanying security or police officers.

9.06 Shellstock Tagging and Labeling

- A. Each harvester licensed by the Department must, prior to landing, securely affix a tag to each container he/she has harvested. If the harvest has occurred at more than one harvest location each container must be tagged at the harvest location and must contain all information necessary to trace the shellfish back to the specific harvest area. Tags must be approved by the Department prior to use and be at least 2 5/8 inches x 5 1/4 inches (6.7 x 13.3 cm) in size and be waterproof and durable.
- B. The harvester's tag must contain legible and indelible printed information arranged in the following order:
1. The title: "Harvester Tag" must be printed on the top of the harvester tag;
 2. Harvester's name i.e., the first and last name of the person who harvested the shellstock;
 3. Harvester's State Commercial Fishing license number;
 4. Date of harvest;
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5. Time of harvest, for the purpose of determining the time and temperature requirements in Chapter 9.08. For a harvester or vessel, the time would be when the first shellstock harvested is no longer submerged
6. The most precise identification of the harvest location, aquaculture lease site or LPA site as is practicable, including the initials of the state (Maine - ME), and the Department's designator of the growing area by indexing, administrative or geographic designation. If the Department has not indexed growing areas, then an appropriate geographical or administrative designation must be used; e.g. flat or cove, river or bay, town, state. For example: White's Cove, Nonesuch River, Shellfishville, ME;
 - (a) Off shore vessels harvesting mahogany quahogs must provide identification as to the bay (if appropriate) and/or harvesting zones described by the Department.
7. Type and quantity of shellfish;
8. The following statement, which must appear in bold capitalized type and must be adhered to at all times:
 "THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY OR IS RETAGGED AND THEREAFTER KEPT ON FILE FOR 90 DAYS"; and
- C. It shall be unlawful for any person or persons other than the certified dealer to be in possession of unused certified dealer tags.
- D. The absence of tags as required by this regulation shall be prima facie evidence of a violation of these regulations and shall be grounds for the immediate embargo and/or destruction of the untagged shellstock as being of unsound or unknown quality, and therefore, unsafe for human consumption.
 1. Exception: Bulk tags where approved for use by the Department in accordance with Chapter 15.18(D).
- E. Shellfish tags that do not contain the required information, or are altered or mislabeled, shall be grounds for the immediate embargo and/or destruction of the shellstock as being of unsound or unknown quality, and therefore, unsafe for human consumption.
- F. Example harvester tags are located at the end of this chapter. Note: both sides of a harvester tag may be used.

9.07 Shellfish Aquaculture

This section applies to persons who are issued an aquaculture lease pursuant to 12 M.R.S.A. §6072 or §6072-A, a limited-purpose aquaculture (LPA) license pursuant to 12 M.R.S.A. §6072-C and to persons permitted pursuant to Chapter 24.05.

The following graph summarizes the licensing, certification, record keeping and tagging requirements applicable to persons engaged in shellfish aquaculture in territorial waters.

A. Aquaculture permitting and licensing requirements

Activities	Additional license required	Certification (Chapters 15 & 16)	Record Keeping	Tagging
Nursery	None	No ¹	Yes ²	None
Personal Use Recreational Use No sale/barter/trade	None	No	Yes ³	None
Product raised for human consumption No processing	Harvester ⁴	No	Yes ⁵	Harvester ⁶

Sold to consumer from residence or to a Maine certified dealer				
Product raised for human consumption Process, sell or ship to other than Maine certified dealers, or in Inter- and Intra State Commerce	Wholesale Seafood ⁷	Yes ⁸	Yes ⁹	Dealer ¹⁰

¹ National Shellfish Sanitation Program, Model Ordinance (as of 04-18-03 throughout) (referred to as "Model Ordinance") Chapter VI (A-C)

² Model Ordinance Chapter VI.02(J), DMR Chapter 9.07(D) and Chapter 2.90(E)

³ DMR Chapter 9.07(D) and Chapter 2.90(E)

⁴ 12 MRSA §6601(2), Model Ordinance Chapter VI.02(B)(2)

⁵ DMR Chapter 9.07(D)

⁶ DMR Chapter 9.06

⁷ 12 MRSA §6851 and §6856

⁸ 12 MRSA §6851, §6856 and Model Ordinance

⁹ DMR Chapter 15.24

¹⁰ DMR Chapter 15.18-20, Model Ordinance Chapter VI.02(B)(3)

1. In accordance with NSSP Model Ordinance Chapter VI.01 Shellfish Aquaculture, a land based aquaculture facility operator/owner is exempt from being a dealer when nursery shellstock are 6 months or more growing time from market size.
2. Any person who holds an aquaculture lease or LPA and any person who has been issued a permit pursuant to Chapter 24.05, who purchases, possesses, processes, sells, ships, shucks or transports shellfish in any form, other than to a certified dealer or in intra- and interstate commerce, and other than for nursery stock, personal or recreational use, or shellstock sold to consumers from a harvester's residence pursuant to 12 M.R.S.A. §6601, must hold a shellfish sanitation certificate 12 M.R.S.A. §6856.

B. Marine Biotoxins

For any marine biotoxin-producing organism for which criteria have not been established under the National Shellfish Sanitation Program Model Ordinance, either cell counts in the water column or biotoxin meat concentrations may be used by the Department as the criteria for not allowing the harvest of shellstock.

1. Paralytic Shellfish Poisoning (PSP); Diarrhetic Shellfish Poisoning (DSP); Domoic Acid (ASP) and Neurotoxic Shellfish Poisoning (NSP)

When local sampling by the Department indicates PSP, DSP, ASP or NSP toxin is present in the area, or phytoplankton which may cause PSP, DSP, ASP or NSP toxin are found in the area, then analysis for PSP, DSP, ASP or NSP will be required prior to DMR approval for the harvest or sale of shellstock from the lease or LPA site or by persons who are registered or permitted as indicated above. A minimum of twelve (12) shellfish must be submitted by the lease or LPA license holder, registrant or permit holder to the DMR Public Health Division Biotoxin Laboratory, by contacting the Boothbay Harbor facility at (207) 633-9555 or the Lamoine facility at (207) 667-2418, at least five (5) business days prior to anticipated harvest.

Prior to approving the harvest or sale of shellfish from any lease or LPA site, or by a registrant or permit holder, which has submitted shellfish samples to DMR, the DMR may, in its sole discretion, send samples to an accredited analytical laboratory for analysis for PSP, DSP, ASP or NSP toxin.

2. Requirements and procedures

Sample results will be reported to the lease or LPA license holder, registrant or permit holder on a marine biotoxin analysis certificate issued by the DMR Public Health Division.

- (a) Monitoring

The cost of monitoring for marine biotoxins, when required under the provisions of this section, shall be paid for by the lease or LPA license holder, registrant or permit holder. When monitoring is required, it must be done prior to the harvest of shellstock from the site for human consumption, or for any other commercial or non-commercial use.

C. Closed Areas

Harvest of shellstock is prohibited in areas that are closed due to bacterial pollution pursuant to Chapter 95. For details about closure lines contact Marine Patrol Division I, west of Port Clyde, Tel. (207) 633-9595 or Marine Patrol Division II, east of Port Clyde, Tel. (207) 667-3373, or telephone the Shellfish Sanitation Hotline at 1-800-232-4733 or on the web at: <http://www.maine.gov/dmr/shellfish%20sanitation%20hot%20line.htm>. (Chapter 9.01(A))

D. Record keeping

Complete, legible and accurate records of transport, transfer, harvest, and monitoring must be maintained by the lease or LPA license-holder, registrant or permit holder and must be made available for inspection for at least two (2) years. The records must include the:

1. Department's Lease ID, LPA license, registrant or permit holder number, site location, date and data related to marine biotoxin analyses;
2. Source of shellfish, including seed if the seed is from growing areas which are not in the approved classification status pursuant to Chapter 2.90 and/or Chapter 15;
3. Dates of transplanting and harvest;
4. Detailed records of sales;
5. Water source, its treatment method, if necessary, and its quality in land based systems pursuant to Chapter 15.32, 15.33, 15.34 and or 15.35; and
6. Records of the origin and health status of all seed or shellfish stocks reared on the lease or LPA site, or by the registrant or permit holder.

E. Shellfish harvested from the site must be kept in containers that prevent commingling of different harvest lots.

9.08 Shellstock Time to Temperature Controls_

Harvested shellstock shall be delivered within 18 hours from the time of harvest (Chapter 9.06(B)(5)) on the shellstock tag to temperature control, i.e. a certified dealer or direct market/consumer within the State of Maine from May 1st to September 30th and within 24 hours from October 1st to April 30th. Time and temperature control requirements must be set in accordance with the NSSP Model Ordinance, Chapter VIII Control of Shellfish Harvesting and DMR Chapter 15.02(A)(91).

- A. The time to temperature requirements for the harvesting of all shellstock to ensure that harvesters shall comply with Level 3 from the NSSP Model Ordinance which is an Average Monthly Maximum Air Temperature of >60 °F - 80 °F (15 °C - 27 °C) and a Maximum Hours from Exposure to Temperature Control of 18 hours from May 1st to September 30th and with Level 2 from the NSSP Model Ordinance which is an Average Monthly Maximum Air Temperature of 50°F - 60 °F (10°C - 15 °C) and a Maximum Hours from Exposure to Temperature Control of 24 hours from October 1st to April 30th.
- B. The water or air temperature to be applied to the requirement above for each growing area shall be established by averaging the previous five (5) years maximum monthly water or air temperatures.
- C. All harvesters shall provide trip records to the initial dealer demonstrating compliance with the time to temperature requirements. The harvest tag may be used to meet this requirement.

9.09 Non-compliance

If the Commissioner determines that an applicant for renewal of a shellfish license is not currently in compliance with shellfish sanitation regulations, failed to report, or has failed to comply with shellfish sanitation regulations during the previous license period, the Commissioner may, in addition to any remedy available, including but not limited to suspension or revocation of the license in accordance with the procedures established under the marine resources' laws, refuse renewal of the license in accordance with the following procedures:

- A. The Commissioner shall advise the applicant for renewal by certified mail, return receipt requested, of the refusal and the grounds for this refusal.
- B. The Commissioner shall advise the applicant for renewal that the applicant has a right to request that an adjudicatory hearing be held before the Department in conformity with 5 M.R.S.A., Chapter 375 subchapter IV. The Commissioner shall advise the applicant that the hearing must be requested in writing and that the written request must be received by the Department no later than 10 days of receipt by the applicant of the notice, by certified mail, of refusal to renew the shellfish certificate.
- C. If an adjudicatory hearing is requested, the Commissioner shall schedule a hearing within 10 days of the Department's receipt of the written request for hearing, unless a longer period is mutually agreed to in writing.
- D. Notice of the hearing date, time and location shall be given immediately to the applicant.

¹ Chapter 9.05 (C) references the time between shellstock exposure, harvest and transport to the initial dealer. During the transportation of shellstock to the original dealer the temperature inside the conveyance can not be any warmer than the outside temperature when the outside temperature is above 50 °F. This means if the outside temperature is 70 °F the shellstock can not be placed in the trunk of a car that is 90 °F.

9.06(G) Example Harvester Tags: The superscripts refer to the required information subsection numbers in Chapter 9.06(B) and are not required on the tag. Note: both sides of a harvester tag may be used.

HARVESTER TAG¹	
NAME ² : _____	DMR LICENSE# ³ : _____
HARVEST DATE ⁴ : _____	TIME ⁵ : _____
HARVEST AREA ⁶ : _____	
SHELLFISH TYPE ⁷ : _____ & QUANTITY ⁷ : _____	
THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY OR IS RETAGGED AND THEREAFTER KEPT ON FILE FOR 90 DAYS⁸	

HARVESTER TAG¹	
NAME ² : _____	
DMR LICENSE# ³ : _____	
HARVEST DATE ⁴ : _____	
TIME ⁵ : _____	
HARVEST AREA ⁶ : _____	
—	
SHELLFISH TYPE ⁷ : _____	
& QUANTITY ⁷ : _____	
THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY OR IS RETAGGED AND THEREAFTER KEPT ON FILE FOR 90 DAYS⁸	

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