

TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

Emergency Regulation

Title of Regulation: **4VAC20-720. Pertaining to Restrictions on Oyster Harvest (amending 4VAC20-720-15).**

Statutory Authority: §§ 28.2-201 and 28.2-210 of the Code of Virginia.

Effective Dates: April 26, 2017, through May 25, 2017.

Agency Contact: Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, or email jennifer.farmer@mrc.virginia.gov.

Preamble:

The amendments remove the April 30, 2017, deadline for purchasing the oyster resource user fee and provide that the fee must be purchased yearly in order to maintain eligibility to harvest oysters from public ground in that year.

4VAC20-720-15. Control date, license moratorium, transferability, and agents.

A. The commission hereby establishes July 1, 2014, as the control date for management of all public oyster fisheries in Virginia. Participation by any individual in any public oyster fishery after the control date may not be considered in the calculation or distribution of oyster fishing rights should entry limitations be established. Any individual entering the public oyster fishery after the control date will forfeit any right to future participation in the public oyster fishery should further entry limitations be established by the commission.

B. ~~Beginning February 23, 2016, only~~ Only individuals who have paid the oyster resource user fee described in clause (ii) of subsection A of § 28.2-541 of the Code of Virginia in ~~previous years~~ any year from 2013 through 2016 may pay that fee ~~for the current year in 2017~~ for harvest of oysters from public ground in that year. ~~Those individuals who are eligible to pay the oyster resource user fee described in clause (ii) of subsection A of § 28.2-541 of the Code of Virginia shall do so by April 30, 2017, in 2017 and by January 1 in subsequent years in order to maintain their eligibility. In any year following 2017, eligibility to pay the oyster resource user fee described in clause (ii) of subsection A of § 28.2-541 of the Code of Virginia shall be limited to those individuals who paid the oyster resource user fee for harvest of oysters from public ground in the previous year.~~

C. Should the number of people eligible to pay the oyster resource user fee described in clause (ii) of subsection A of § 28.2-541 of the Code of Virginia in any given year fall below 600, a random drawing shall be held to award eligibility to pay that oyster resource user fee to individuals who were not previously eligible until the number of persons eligible to pay the fee reaches 600. Any Commercial Fisherman Registration Licensee may apply for the random drawing.

D. Any person eligible to pay the oyster resource user fee described in clause (ii) of subsection A of § 28.2-541 of the Code of Virginia, or such person's legal representative, may transfer the eligibility to pay such user fee to:

1. A transferee who is the transferor's spouse, sibling, parent, child, grandparent, or grandchild and who possesses a current Commercial Fisherman Registration License and intends to participate in the public oyster fishery.

2. A transferee other than a person described in subdivision 1 of this subsection if the transferor has documented by mandatory reporting and buyers reports 40 days or more of public oyster harvest during the previous calendar year.

All transfers under this subsection shall be documented on a form provided by the Marine Resources Commission.

E. Exceptions to subsection B of this section shall only apply to those individuals who previously paid the oyster resource user fee described in clause (ii) of subsection A of § 28.2-541 of the Code of Virginia and shall be based on documented medical hardships or active military leave that prevented the fisherman from fully satisfying the requirements of subsection B of this section.

F. No person shall serve as an agent for any public oyster gear licensee.