

TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

Emergency Regulation

Title of Regulation: **4VAC20-720. Pertaining to Restrictions on Oyster Harvest (amending 4VAC20-720-40, 4VAC20-720-70, 4VAC20-720-80).**

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

Effective Dates: November 12, 2018, through December 11, 2018.

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Preamble:

The amendments (i) adjust the open dates of Rappahannock River Rotation Area 3 to close harvest by patent tong on November 11, 2018, and open harvest by hand scrape from November 12, 2018, through January 10, 2019; and (ii) lower the limit in the patent tong areas to eight bushels per licensed harvester per day and 16 bushels per vessel per day.

4VAC20-720-40. Open oyster harvest season and areas.

A. It shall be unlawful for any person to harvest oysters from public and unassigned grounds outside of the seasons and areas set forth in this section.

B. It shall be unlawful to harvest clean cull oysters from the public oyster grounds and unassigned grounds except during the lawful seasons and from the lawful areas as described in ~~the following subdivisions of~~ this subsection.

1. James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area: October 1, 2018, through April 30, 2019.
2. Milford Haven: December 1, 2018, through February 28, 2019.
3. Rappahannock River Area 9: November 1, 2018, through December 31, 2018.
4. Little Wicomico River: October 1, 2018, through December 31, 2018.
5. Coan River Area: October 1, 2018, through December 31, 2018.
6. Yeocomico River Area: October 1, 2018, through December 31, 2018.
7. Nomini Creek Area: October 1, 2018, through December 31, 2018.
8. Mobjack Bay Area: February 1, 2019, through February 28, 2019.
9. Rappahannock River Rotation Area 3: November 1, 2018, through November ~~30~~ 11, 2018 (patent tong only), and ~~January 1, 2019, through February 28~~ November 12, 2018, through January 10, 2019 (hand scrape only).
10. Rappahannock River Rotation Area 5: October 1, 2018, through November 30, 2018.
11. Great Wicomico River Rotation Area 2: December 1, 2018, through December 31, 2018, and February 1, 2019, through February 28, 2019.
12. Upper Chesapeake Bay - Blackberry Hangs Area: December 1, 2018, through December 31, 2018, and February 1, 2019, through February 28, 2019.
13. James River Hand Scrape Areas 1 and 3: November 1, 2018, through January 31, 2019.

14. James River Hand Scrape Area 2: October 1, 2018, through December 31, 2018.
15. Pocomoke Sound Rotation Area 2: December 1, 2018, through January 31, 2019.
16. Tangier Sound Rotation Area 2: December 1, 2018, through February 28, 2019.
17. Pocomoke Sound Area: November 1, 2018, through November 30, 2018.
18. Rappahannock River Area 8: October 1, 2018, through October 31, 2018 (patent tong only), and December 1, 2018, through December 31, 2018 (hand scrape only).
19. Deep Rock Area: December 1, 2018, through February 28, 2019.
20. Seaside of the Eastern Shore (for clean cull oysters only): November 1, 2018, through March 31, 2019.

C. It shall be unlawful to harvest seed oysters from the public oyster grounds or unassigned grounds, except during the lawful seasons. The harvest of seed oysters from the lawful areas is described in ~~the following subdivisions~~ of this subsection.

1. James River Seed Area: October 1, 2018, through May 31, 2019.
2. Deep Water Shoal State Replenishment Seed Area: October 1, 2018, through May 31, 2019.

4VAC20-720-70. Gear restrictions.

A. It shall be unlawful for any person to harvest oysters in the James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area, the Rappahannock River Area 9, Milford Haven, Little Wicomico River, Coan River Area, Nomini Creek Area and Yeocomico River Area, except by hand tong. It shall be unlawful for any person to have a hand scrape on board a boat that is harvesting or attempting to harvest oysters from public grounds by hand tong.

B. It shall be unlawful to harvest oysters by any gear from the seaside of the Eastern Shore except by hand or hand tong. It shall be unlawful to harvest oysters that are not submerged at mean low water by any gear other than by hand.

C. It shall be unlawful to harvest oysters in the following areas by any gear except by hand scrape: Rappahannock River Rotation Area 3, from ~~January 1~~ November 12, 2018, through ~~February 28~~ January 10, 2019; Rappahannock River Area 5, from October 1, 2018, through November 30, 2018; James River Hand Scrape Areas 1 and 3, from November 1, 2018, through January 31, 2019; James River Hand Scrape Area 2, from October 1, 2018, through December 31, 2018; Upper Chesapeake Bay - Blackberry Hangs Area, from December 1, 2018, through December 31, 2018, and February 1, 2019, through February 28, 2019; Mobjack Bay Area, from February 1, 2019, through February 28, 2019; Pocomoke Sound Area, from November 1, 2018, through November 30, 2018; and Great Wicomico River Areas, from December 1, 2018, through December 31, 2018 and February 1, 2019, through February 28, 2019.

D. It shall be unlawful to harvest oysters from the following areas by any gear except an oyster patent tong: Rappahannock River Rotation Area 3, from November 1, 2018, through November 30 ~~11~~, 2018, and Rappahannock River Rotation Area 8, from October 1, 2018, through October 31, 2018.

E. It shall be unlawful for any person to have more than one hand scrape on board his vessel while he is harvesting oysters or attempting to harvest oysters from public grounds. It shall be unlawful for any person to have a hand tong on board his vessel while he is harvesting or attempting to harvest oysters from public grounds by hand scrape.

F. It shall be unlawful to harvest oysters from the Pocomoke and Tangier Sounds Rotation Area 2, except by an oyster dredge.

G. It shall be unlawful to harvest oysters from the Deep Rock Area, except by an oyster patent tong.

4VAC20-720-80. Quotas and harvest limits.

A. It shall be unlawful for any person who does not possess a valid commercial fisherman's registration license and a valid gear license required for any harvest area, as described in 4VAC20-720-75, and has not paid the current year's oyster resource user fee to harvest or possess any oysters for commercial purposes. Any individual who possesses a valid hand scrape or dredge license and has paid the oyster resource user fee as described in this subsection shall be limited to a maximum harvest of eight bushels per day. It shall be unlawful for any vessel to exceed a daily vessel limit of 16 bushels clean cull oysters harvested from the areas described in 4VAC20-720-40 B 8 through 18 when the vessel is using the hand scrape or oyster dredge.

B. It shall be unlawful for any person who does not possess a valid commercial fisherman's registration license and a valid gear license required for any harvest area, as described in 4VAC20-720-75, and has not paid the current year's oyster resource user fee to harvest or possess any oysters for commercial purposes. Any individual who possesses a valid hand or hand tong license and has paid the oyster resource user fee as described in this subsection shall be limited to a maximum harvest of 12 bushels per day. It shall be unlawful for any vessel to exceed a daily vessel limit for clean cull oysters harvested from the areas described in 4VAC20-720-40 B 2 through 7 and 20, whereby that vessel limit shall equal the number of registered commercial fisherman licensees on board the vessel who hold a valid gear license and have paid the oyster resource user fee multiplied by 12.

C. It shall be unlawful for any vessel to exceed a daily vessel limit for clean cull oysters harvested from the areas described in 4VAC20-720-40 B 1, whereby that vessel limit shall equal the number of registered commercial fisherman licensees on board the vessel who hold a valid gear license and who have paid the oyster resource user fee multiplied by 12. It shall be unlawful for any person who does not possess a valid commercial fisherman's registration license and hold a valid gear license required for any harvest area, as described in 4VAC20-720-75, and has not paid the current year's oyster resource user fee to harvest or possess any oysters for commercial purposes. Any individual who possesses the valid licenses and has paid the oyster resource user fee as described in this subsection shall be limited to a maximum harvest of 12 bushels per day.

D. It shall be unlawful for any person who does not possess a valid commercial fisherman's registration license and a valid gear license required for any harvest area as described in 4VAC20-720-75 and has not paid the current year's oyster resource user fee to harvest or possess any oysters for commercial purposes. Any individual who possesses a valid patent tong license and has paid the oyster resource user fee as described in this subsection shall be limited to a maximum harvest of ~~10~~ eight bushels per day. It shall be unlawful for any vessel to exceed a daily vessel limit of ~~20~~ 16 bushels of clean cull oysters harvested from the areas described in 4VAC20-720-40 B when the vessel is using patent tongs.

E. In the Pocomoke and Tangier Sounds Rotation Area 2, no blue crab bycatch is allowed. It shall be unlawful to possess on board any vessel more than 250 hard clams.