

SHELLFISH MANAGEMENT DIVISION EVALUATION, 02/28/2023

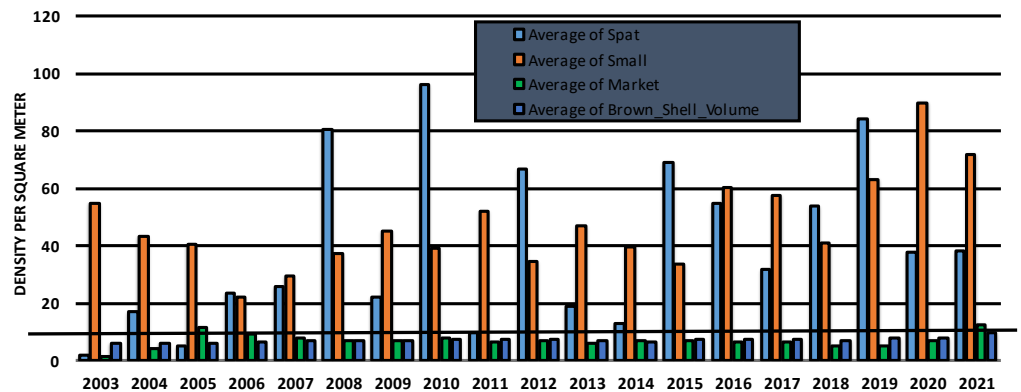
PUBLIC HEARING: The Commission proposes to amend Chapter 4 VAC 20-720-10 et seq., "Pertaining to Restrictions on Oyster Harvest", to adjust the public oyster harvest seasons.

ISSUES: In August, when the Shellfish Management Advisory Committee (SMAC) made recommendations on the 2022-2023 harvest season. Many members of SMAC requested that a Commission hearing be scheduled prior to the close of the public harvest season to discuss a possible season extension. Staff collaborated with SMAC to schedule a public hearing in February to allow for more of the total impacts of harvest effort and weather conditions to be considered. Typically, extreme weather events have been the justification for staff support of extensions in some areas in the past.

Staff, working with SMAC over several meetings in 2022 developed recommendations for the Commission on the 2022-2023 public oyster harvest season. The season recommended in August, and adopted by the Commission, accounted for the current and excellent condition of the resource. As such, the season that was established lengthened the hand scrape season by one month in the Rappahannock, James, and Mobjack/York hand scrape areas (compared to 2021-2022 season). Patent tong area seasons were also extended by an additional month and a half in some locations. The intent of this was to provide a consistent and steady supply of Virginia oysters for the majority of the season (October through April), while meeting peak demand for this product in November and December and keeping effort spread between multiple areas and gear types. Thus far, this strategy has largely worked as intended.

The Virginia Oyster Resource is currently in the best condition it has been in a generation. This is based on the most recent standing stock assessment survey conducted jointly by VMRC and VIMS in the fall of 2021.

All Areas Surveyed all Sizes With Shell



BACKGROUND:

The productivity of the public oyster grounds open to harvest are maintained by a combination of three factors: (1) The consistent and continuous replenishment efforts in the form of shell planted directly on the areas that are opened to harvest; (2) a relatively consistent spat set, and (3) managing the harvest gear used in certain areas to protect bottom habitats. The public ground can remain productive if these three factors are considered by any management plan.

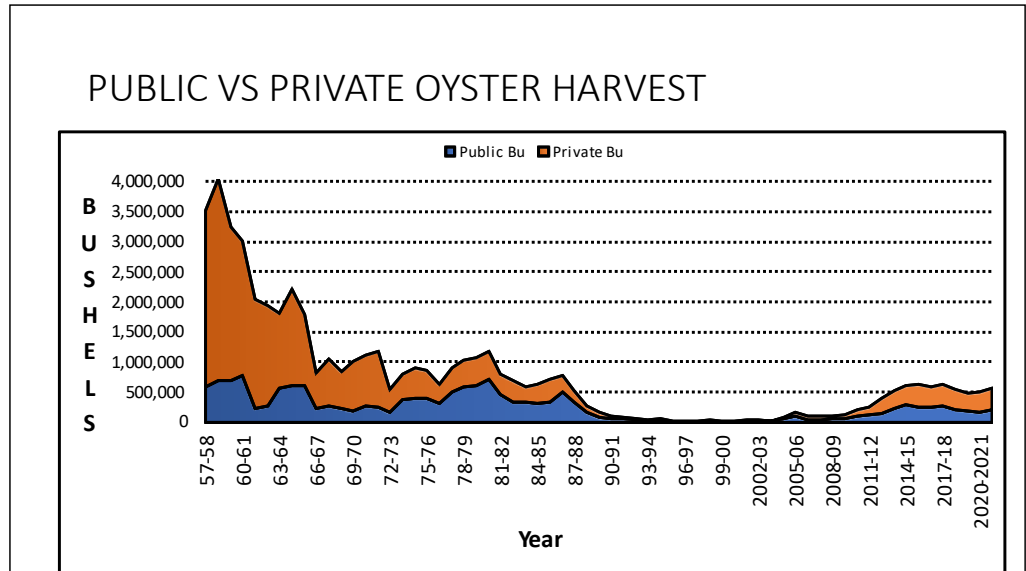
Areas that do not consistently receive good spat sets or replenishment and are opened to harvest by scraping or dredging will begin to see a decline in productivity. Depending on the existing oyster density and the amount of harvest activity, this decline can be rapid.

At the January Commission meeting, during the public comment period, a request was made by commercial oyster harvesters, to extend, by emergency action, some harvest areas that were scheduled to close at the end of January. The argument was made that extending some areas would relieve pressure on areas that had been more heavily worked and would improve the condition of the resource in areas that had not been as heavily worked. The Commissioner has the authority through non-emergency action, to close any area, but Commission action is required to extend seasons once established by the Commission. The Commission voted unanimously to extend two areas scheduled to close in January, with the understanding that any additional areas requested, that were scheduled to close at the end of February, could be addressed through a duly noticed public hearing in February. This would also

allow for additional collaboration with SMAC. The extension was approved through February 24, 2023, for the James River Areas 1, 2, and 3 (hand scrape gear) and Rappahannock Rotation Area 2 (hand scrape gear).

Since the January meeting, SMAC has convened twice to provide recommendations on season extensions. The Commissioner, in accordance with current regulation and the recommendations of the Conservation and Replenishment Department can close areas open to harvest when the volume of oysters has been depleted by 50% or more as determined by the Replenishment Department. The Commissioner took this action and closed Rappahannock River Rotation Area 4 on February 10th, it was scheduled to close on the 28th. The SMAC recommendations on additional extensions are to extend all areas as shown in the attached draft regulation by 10-working days (2 weeks).

If these changes are adopted, it is likely that the harvest of public oysters will top 300,000 bushels for the first time since the 1987-88 season. It should be noted that after the 1987-88 season, the oyster fishery crashed, and public harvest did not exceed 200,000 bushels for 25 years and is only recently beginning to show signs of sustained recovery (see below).



Harvest in the 1980’s was primarily done with patent and hand tongs. Today most of the harvest from public ground uses small dredges defined as “hand scrapes” in regulation. This allows for harvest in areas that were only open to harvest by hand or patent tongs in the 1980’s as dredging on these areas was and is prohibited by Virginia Code. It is difficult to directly compare the condition of the resource in the 1980’s and earlier to the condition of the resource

today as the methods of surveying the public ground has changed. However, it is likely that in some areas the resource is returning to the conditions prior to the widespread impacts of disease that so decimated oyster populations in the late 1980s through the early 2000s. Disease, along with increased harvest effort likely contributed to this dramatic decline in both oyster harvest and populations.

Staff encourages the Commission to take a conservative and incremental approach when considering increasing harvest amounts.

STAFF

RECOMMENDATION:

Staff recommends adopting Amendments to Chapter 4 VAC 20-720-10 et seq., "Pertaining to Restrictions on Oyster Harvest" that do not to extend any area beyond the SMAC recommended areas and that these areas have no more than a 10-working day (2 week) extension.

Attachments:

1. Draft Regulation
2. Public Notice